

# PUBLIC ADMINISTRATION IN INDIA

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## PREFACE

Public administration as an independent discipline developed largely during the present century. In India, its development can more or less be traced, during the years after Independence. In any democratic system public administration functions in the context of politics. There is a close interaction between the two. With the adoption of socialist welfare state as our goal, administration has become a vital instrument of our economic and political development. Now there is a general awareness of the tasks of administration. The new functions of the state cover more people than ever before. The sense of participation in administration developed through the democratic process. Administrative decentralisation has created an atmosphere where politics cannot be separated from administration and thus there is an evergrowing need for knowing the pattern and content of the administration of the country.

The present book tries a critical and analytical discussion of all the important aspects of Indian administration against their theoretical and historical background.

An attempt has been made to examine the impact of various problems on the administration, e. g., the problem of state undertakings, the problem of committed bureaucracy, the impact of planning on administration, centre-state relations and the like. It has been rightly said : 'If politics is power and influence so is the bureaucracy.' Political interference with the normal process of administration creates new problems. On the other hand, lack of responsiveness to public reactions, the existing distance between the administrator and the people, the low speed and the poor efficiency with which the administration functions at most levels are mainly responsible for corruption and the related evils. This naturally leads us to the problem of administrative reform with its wide-ranging implications, the subject which has been thoroughly discussed. While dealing with the subject full use has been made of Gorwala's *Report on Public Administration*, Appleby's *Report on Public Administration in India*, Santhanam Committee Report, V. T. Krishnamachari's Report on the Machinery of the Government of India, Finance Commission Reports, Administrative Reforms Commission Reports

and several Reports on Administrative Reforms by Committees appointed by the State Governments. All these reports have highlighted various shortcomings of Indian administration at union and state levels and make valuable suggestions as well as recommendations. In the ultimate analysis the public administration of a country reflects the value system and the national commitment of the political elite. Administrative reform is therefore, essentially a political process and not merely an administrative one. Till now no headway has been made in this direction mainly because administrative reforms have hitherto been viewed only as an administrative process.

The response of the public to the administration is a product of several factors and is related to the larger question of the exposure of the masses to the process of modernisation. The capacity of bureaucracy to evoke the support and enthusiasm of the mass particularly in rural India, is to be viewed from its own internal structuring, its procedures, the attitudes of officials and the nature of traditional society. The relationship between ministers and civil servants and the problem of political interference with the administration are part of a larger problem concerning the bureaucracy, because bureaucrats have their ambitions no less than politicians. But since the welfare state is tending to become synonymous with the administrative state there is a need for a strongly motivated development of the discipline for the developing societies.

The present work, it is hoped, will provide to the readers a comprehensive study of the subject which has been discussed in a comparative and analytical manner.

—P. SHAR

## CHAPTER I

# EVOLUTION OF PUBLIC ADMINISTRATION

### I. ANCIENT PERIOD

India is the only country which has an almost continuous tradition of developed public administration since very early times. In ancient India, the different branches of knowledge were grouped under four heads, namely, Philosophy, the Vedas, Economics, and Politics. Of these, Politics was regarded as a very important subject of study. But it was treated more as an art than as a science; in other words, guidance in the practice of actual administration rather than the construction of a complete and consistent system of political theories, was the object mainly aimed at in the study of the subject.<sup>1</sup>

The Arthashastra of Kautilya is a book of Economics in name only; it really belongs to the field of Political Science. Most of the competent authorities agree that it is India's greatest contribution to the art of public administration. The State portrayed by Kautilya was not merely a police state. 'The State, according to Kautilya, must be based on sound economic foundations, so as to enable men to realise the aims of life, to lessen as much as possible, the struggle of existence at home, to lessen the dependence of the community on the outside world, to be in a position to help other sections of humanity in distress, and thereby to ensure an existence conducive to the happiness of men in this life and pave the way to a brighter one beyond.'<sup>2</sup> It has been very aptly said that the Arthashastra is truly an anthology of political wisdom and theory and art of state craft, scattered in pre-Kautilyan writings, streamlined and reinterpreted by Kautilya in his attempt to construct a separate and distinct science of state-craft.<sup>3</sup>

#### FORM OF KINGSHIP

Although the non-monarchical (also called republican) forms of government existed down to the fourth century A.D., many forces—most important being the great increase in the size of the state—had been at work for several centuries past to make monarchy the prevailing

<sup>1</sup> P. N. Banerjea, *Public Administration in Ancient India*, 1.

<sup>2</sup> N. C. Bandopadhyaya, *Kautilya*, 51.

<sup>3</sup> T. N. Ramaswamy, *Essentials of Indian Statecraft*, 1.

form of administration in the country. King, in ancient India, was the keystone of the social arch. In the early Vedic period, kingship was elective; the choice of the king was made by the 'rajkritas' or 'rajkartarah' i.e. king-makers. At the same time the Vedic King ruled with the help of popular bodies—Samiti and Sabha.

The word Samiti (sam-iti) means 'meeting together', i.e. an assembly. It was the national assembly of the whole people or visah; for we find 'the whole people' or Samiti, in the alternative, electing and re-electing the Rajan or King. The whole people were supposed to be present from the constitutional point of view. In the Atharva-veda (VI-64) there is a prayer-hymn for union and concord, and also in the Rig-veda (X.191.3), we have a prayer for a 'common samiti', a 'common policy of state', a 'common aim' and a 'common mind'. This indicates that matters of state ('mantra') were discussed in the Samiti. It was thought necessary that the king should attend the samiti. 'Sabha means literally' a body of men sitting together. Those entitled to a seat therein were invested, so to say, with lustre. The Sabha also acted as the national judicature. Thus, we find from the Vedas that national life and activities in the earliest times were expressed through popular assemblies and institutions.<sup>1</sup>

The king, according to Kautilya, should establish safety and security by being ever active; maintain his subjects in the observance of their respective duties by exercising authority; and endear himself to the people by bringing them in contact with wealth and doing good to them. 'In the happiness of his subjects lies his happiness; in their welfare his welfare; whatever pleases himself he shall not consider as good, but whatever pleases his subjects he shall consider as good. Hence the king shall ever be active and discharge his duties; the root of wealth is activity, and of evil its reverse.'<sup>2</sup> Being assured of fair means and not being thrown into the current of ordinary life, the king could hold the balance between the various groups composing society under his rule. He was constantly reminded that the welfare of society over which he was placed, was his own welfare and unhappiness of those under his care was the surest way of ensuring his unhappiness here and eternal suffering hereafter. The very term 'Raja' was interpreted as one—whose function was to please the people.

For carrying out law and administration he was entitled to one-sixth of the produce of the land and one-tenth of merchandise besides other dues such as tolls and duties. The taxes were regarded by the Hindu political thinkers as wages of the king for the service of administration. 'The theory that the taxes were wages for protection was so ingrained in the constitution that even partial failure of protection was deemed to entitle the subjects to claim refund of

<sup>1</sup> K. P. Jayaswal, *Hindu Polity*, 12-18.

<sup>2</sup> R. Shamasastry, *Kautilya's Arthashastra*, 38,



wages in proportion to the loss.<sup>1</sup> Taxes were just, equitable, and reasonable, this fact is borne out by a number of literary and epigraphic evidence. It is said that a king should not have recourse to adharmic methods; nor should he be impelled by greed or covetousness. The king is advised to conduct himself in the matter of taxation like a bee sucking honey from flowers and a cowherd tending his cattle. It simply means that springs of productive energy must not in the least be disturbed; for to disturb them is to lay the axe at the very root. Hindu texts on polity always advocate the principle of equity in the matter of collecting taxes.

As a matter of fact India evolved a higher kind of monarchy. We find Dasratha consulting his subjects, *i.e.*, the Brahmanas, Mukhias, Pauras and Janapadas (Ayodhya Kand, II, 19–20) before coming to a decision about the office of Yuvarajya for Rama. Several instances show popular participation in all important affairs of the state. It was within the rights of the people to expel wicked princes, to fill up the throne if there were any vacancy caused by abnormal circumstances, or to appoint a regent to fill the throne. A coronation oath had to be taken by the king on his *abhishek*. If he failed to keep the pledge, he was stigmatized as an *asatya-pratijna* and was held to have automatically forfeited the throne. The traditions mention the destruction of king Vena for mis-government. The Mahabharata (Anus. Parva, XI. 32–33) specifies the rulers who could be killed.

Further, ancient Hindu political thinkers contemplated several checks on the authority of the kings. These may be broadly classified under two heads, viz. preventive and retributive. The former were those which tended to prevent a king from degenerating into a tyrant. These were internal as well as external, which were subdivided into religious and political. During the period of studentship, the prince had to live the austere life of a Brahmachari, observing celibacy and undergoing the hardships involved in the study of the different subjects. Kautilya lays great stress on the restraint of the organs of sense on the part of a king by abandoning lust, anger, greed, vanity, haughtiness and overjoy. By retributive checks kings were punished by fines, deposition and tyrannicide for wrongs committed by them.

#### REPUBLICS

But India was not always the home of despotic authority; in other words, monarchy was not the only form of government. Republics, too, existed—perhaps as numerous and as potent as in the western world. ‘Hindu republics are another illustration of communal self-governing habits of the post-Vedic age. The account of Hindu states of non-kindly forms of government presents a great chapter

<sup>1</sup> K. P. Jayaswal, *op. cit.*, 321.

in the constitutional history of the race. The laws and the administration of law in the republican states of India are unanimously praised by the Greek observers, and their praise is confirmed by the Mahabharata. A high sense of justice was maintained. Discipline was another virtue of theirs. Bravery was a point of ambition and honour amongst the citizens. However, we do not find any systematic philosophy of republicanism in ancient India. Probably this was due to the fact that when in about the fourth century B.C. political theorising began, republicanism as a polity was getting weaker and weaker.<sup>1</sup>

A characteristic feature of social life in the republics, which distinguished them from that of the contemporary monarchies was the superiority of the Kshatriyas over the Brahmans in the social scale. Other leading features of republican administration, bearing strong influence of the monarchic states, were : (1) The excessive formalism and ritualism of the governments. (2) The governments of the republics exercised strict control over individuals and families by means of executive edicts as well as by legislation. (3) The authorities in control of the republican states adopted distinctive symbols and devices.<sup>2</sup>

#### EMPIRE

Chandragupta was the first great Mauryan emperor, who was a 'Samrat' or 'King of Kings'. Some of the local rulers owed a nominal allegiance to the suzerain power; others paid the annual tribute and were liable to be called upon to assist in case of a war with foreign powers. They were practically independent of control so far as their internal affairs were concerned. The system of government might be described as a limited monarchy. The form of government under the great emperor, Asoka the Great, resembled a paternal despotism, but the power of the emperor was not quite absolute. The devices by which the monarch's authority was kept within proper limits were more moral than political and the term used by P. N. Banerjea to describe the system is 'Sachiva-tantra'.

'The efficiency of administration, of course, varied in the different states and at different times. As might be expected, under good kings and capable minister a high standard of success was attained, while incompetent administrators not unoften found it difficult to maintain peace and security in the whole kingdom however, it seem that the administration was efficient. It was founded, as the Chinese traveller, Hiuen Tsiang, noticed, 'on benign principles'; and the results of good government were to be seen in the happiness and prosperity of the people, the growth of literature,

<sup>1</sup> V. P. Varma, *Studies in Hindu Political Thought and its Metaphysical Foundations*, 34.

<sup>2</sup> U. N. Ghoshal, *A History of Indian Public Life*, 190-91.

arts, and sciences, and in the high order of civilization.<sup>1</sup>

The Mauryas adopted some striking methods of political integration of their territory which may be summarized as : (a) Creation of a highly centralised administration under the rule of the Emperor and his officials, its benefits being particularly brought home to the people by the extensive programme of public welfare adopted by Asoka after his conversion. (b) The appointment of Maurya princes as Viceroy in charge of the imperial provinces. (c) Asoka's adoption of the so-called 'Monumental Prakrit' as State language of the Empire, accompanied by his almost universal use of common script (the Brahmi) for this language. (d) Asoka's enlightened policy of toleration for all religious sects. (e) The wise policy of adaptation to local conditions. This was accompanied by the policy of granting autonomy to the dependent tribes and peoples such as those mentioned by name in Asoka's inscriptions.

The branches of political organization in the Maurya Empire may be described under the following heads : (1) Security and progress of the state; (2) Public security and welfare; (3) State control over popular recreations; (4) State-planned foundations of towns and construction of architectural monuments; (5) Status of religious sects and Asoka's relation with the Buddhist Church; and (6) Status of the autonomous peoples and of foreign subjects.<sup>2</sup>

Maurya and pre-Gupta texts stress the principle of royal protection in return for taxation, but this is not emphasized in the Gupta and post-Gupta works. Brahmanas exercised some checks on the authority of the King in the post-Gupta period. Theoretically they were the custodians of the law-books and interpreted the texts for the king. Feudatories constituted another check on the royal power. They had sometimes a determining voice in matters of succession. The ministers also exercised some check on the royal power.

#### ASPECTS OF ADMINISTRATION

The ministers were divided into two classes, *amatya* and *mantrin*. In the *Arthashastra* the *amatyas* constituted a regular cadre of service from which all high officers such as chief priests, ministers and treasurers engaged in civil and criminal administration were recruited. *Kautilya*, Manu and Kamandaka use the word *sachiva* and *amatya* as synonymous. In the text of Kamandaka *sachiva* generally means a minister; but the *Nitisara* of Kamandaka nowhere clearly differentiates *sachiva* from *mantri*. *Kautilya* assigns the *amatya* agricultural operations, fortification and welfare of the territory, punishment of the criminal and collection of the royal dues.

The Gupta central government appointed the provincial

<sup>1</sup> P. N. Banerjea, *op. cit.*, 47.

<sup>2</sup> U. N. Goshal, *op. cit.* 246-47.

governors, who are described as *tatapadhapargrahitā* (accepted by the imperial Majesty's feet and having the right to use such titles as *Uparikamaharaja*). These provincial governors had the power to appoint *visayapatis*, who are described as *tanniyukhas* (appointed by them). However, there was nothing like a central or imperial fiscal system, as the collection of taxes was not controlled and supervised by the central government. There were two systems of administration and taxes were collected separately by them. There was only a provincial or district fiscal system.

The smallest administrative unit in the post-Gupta period was village. Its administration was placed under the village headman called *gramika* or *gramini*. The village administration was run by the *mahattara* with the help of his council of five called *panchkula*. In some cases the increased work of the village administration necessitated the increase in their numbers to eight (as to *kuladhikarana*). The village officers were placed in charge of peace and order, protection of life and property.

From the post-Maurya period and especially from the Gupta times, certain political and administrative developments tended to feudalize the state apparatus. The most striking development was the practice of land grant which allowed administrative and fiscal immunities to religious beneficiaries. In a few examples civil officers were also allotted land for their services to the state, but, on the other hand, the grant of land for military service was conspicuously absent in the post-Gupta period. The political organisation of North India to 500–750 A. D. as a whole was not unitary in the strict sense of the term. According to Beni Prasad it was a federal-feudalism. But G. P. Sinha does not agree with this view *in toto*. The modern notion of federalism—written constitution, clear demarcation of spheres of power, the idea of coordination of federal and state authorities—were unknown in that period. It was more or less a tributary system.<sup>1</sup>

## II. MEDIEVAL PERIOD

During the period 750–1200 A. D., King-in-Ministry was the normal form of government throughout India. The feudatory states were also governed by the same machinery. The king was the supreme head of the executive, judicial and military administration. His paramount duty as the head of the government was to protect the people and work for their welfare. Being the head of the judicial administration, the king administered law impartially and ascertained carefully whether proper justice was administered by lower courts. Besides these functions, the king had to promote *Dharma*, *Artha* and *Kama*, for the religious, socio-economic and aesthetic progress of the

<sup>1</sup> G. P. Sinha, *Post-Gupta Polity*, 217–19.

society. He encouraged virtue and morality, and helped all the religious sects.

As regards the efficiency of the different governments of the period, it may be said that they were usually able to maintain law and order and to develop the resources of the country by encouraging trade, industry and agriculture. The immense wealth consisting of pearls, gold and silver, carried away by Mahmud of Ghazni clearly indicates how prosperous the economic condition was during the period. Literature also prospered, especially in the branches of politics, dharmashastras, poetics, astrology, chemistry and philosophy. But on the debit side, we have to note that the ideal of India as one political unity could not yet be realized. India was divided into a number of states which were engaged in frequent feuds.<sup>1</sup>

#### RAJPUT RULERS

During the post-Harshan period, when Rajput ascendancy became almost universal in India, the usual form of government throughout the country was feudal monarchy. But in consonance with ancient Indian tradition, the basis of sovereignty was essentially moral and spiritual. The aim of government was not confined merely to promotion of peace and prosperity. The duties of the king were : to preserve the *Varnashram Dharma*, to promote public morality, and to abstain from interference in the spiritual progress of the individual. He was also required to suppress all internal and external enemies of the state in order to ensure peace and security so that the people might live a life of joy and contentment.

Feudalism was an essential characteristic of Rajput monarchy. The Rajput rulers have often been described as autocratic despots, but their autocracy was confined within definite limits and a ruler could even be deposed in special circumstances. Each state had a council of ministers in which the Crown-Prince and the Chief Consort of the ruler had a place *ex officio*. In certain cases, ministers were appointed on a hereditary basis from selected families. In the local and the central government the barons (many of whom had ties of kinship with the ruling family) had special privileges and powers; which no rulers could safely disregard. That circumscribed the autocracy of the sovereign.

A council of ministers was thus a *sine qua non* of Rajput monarchy. The titles of ministers varied from state to state, but certain officers were common. The Crown-Prince and the Queen Consort held a place of honour in the council. Next in precedence to them was the chief minister, who was called *Mahamatya* or *Mahamantri*. *Mahasandhi vigrahika* held the foreign portfolio; finance and royal stores were in charge of *Bhandaagrik*, while the department of revenue

<sup>1</sup> Padama B. Udgaonkar, *The Political Institutions and Administration of Northern India during Medieval Times*, 227-28.

was held by *Mahakrshpatalika*. The head of the army was called *Mahasenapati* and other councillors were the chief Priest, the Astro-nomer, and the *Vinaysthitisthapak*. The Council in its collective capacity advised the king, while its members in their individual capacity controlled and organised the working of departments under their charge.

The whole kingdom was divided into a number of districts and regions. The Central region was under the direct command of the monarch, who looked after its administration. The next lower unit of government was called *Bhukti* or *Mandal* and their officers were called *Rajsthaniya*. In the Deccan, where the province or the district was called *Rashtra*, the officer in charge was called *Rashtra-pati*. The next lower unit was called *Vishaya* whose officer was called *Vishayapati*. The lowest unit of administration was the village which had a village panchayat and a head-man, called *Grampati*, *Pattakila* or *Gramkuta*. Municipal administration of the towns was modelled on village administration.

'Rajput government was an amalgam of militarism, feudalism and divine right monarchy. The chief aim of the rulers was acquisition of military glory rather than promotion of public weal. The rulers, therefore, evoked respect but not affection or gratitude. Civil and military appointments generally went to the Brahmins and the Kshatriyas. This made the rest of the people apathetic towards political affairs.... By abstaining from interference in local administration they helped to develop among the local population initiative, efficiency and self-reliance.'<sup>1</sup>

#### ISLAMIC CONCEPTION OF STATE

Muslim polity like its Hindu counterpart had a theological basis. Islamic society and government were largely organised on the basis of divine injunctions contained in the Holy Quran. According to the Quran the real master and sovereign of the whole universe is Allah; and it is incumbent on all Muslims to obey him. According to Islamic conception, therefore, the state is only an instrument to serve the creed in the attainment of its objects or the ideal of Millat of Islam as revealed to it through the medium of Prophet Muhammed.... Theoretically viewed, therefore, the nature of Islamic state remained communal. It conceived of only the faithful, *i. e.*, the Muslims, to constitute its citizens. The theory of the state thus merged into the theory of monarchy. All the political ideas and functions of the state became centred round the person of the monarch.<sup>2</sup>

<sup>1</sup> A. B. Pandey, *Society and Government in Medieval India*, 1-9.

<sup>2</sup> U. N. Day, *The Mughal Government*, 1-2.

## THE SULTANS OF DELHI

The Sultan dominated the central government. He was the legal head of the state and acted as the chief executive and the court of highest appeal. He made appointments to all the higher civil and military posts; and the entire bureaucracy acted under his control and supervision. He was assisted by a number of officials, chief among them were : Deputy Sultan or Naib, Wazir (head of the finance department), Ariz-i-mumalik (chief of military staff), Sud-us-sudur (head of ecclesiastical department), Qazi-ul-quzat (head of the judicial department), Dabir-i-khas or Amir-Munshi (Head of the records department), Barid-i-mumalik (head of the information and intelligence department).

Besides the above there were other officers, who presided over departments of lesser importance, or were connected with the court or the royal household. The whole kingdom was divided into a number of provinces; but the provincial administration under the Sultans was neither strong nor efficient. Provincial governors were called Nazim, Naib Sultan or Wali. Like the Sultan at the centre, the provincial governor combined in his hands the powers of administering law and order, control over the local army, realization of state dues and justice. Within the province there were lower units of government.

In the later medieval age despotic monarchy remained the usual form of government. The power of the monarch, instead of diminishing, tended to increase further. The monarchs of this period were generally free from any sectarian bias and were mainly motivated by political and military considerations alone. The powers of the ministers remained more or less as before. The nobility in the early medieval period was essentially a creation of the ruling sovereign. In comparison to the monarch, therefore, the nobles were very weak and possessed no customary or hereditary rights.

## THE MUGHAL EMPERORS

The victory of Babar at the battle of Panipat in 1526 led to the founding of the Mughal rule in India. Humayun recaptured Delhi and ascended the throne again for a short time. His death in an accident in January 1556 led to the coronation of young Akbar at Kalanaur on 14 February. The last of the great Mughal Emperors, Aurangzeb, died on 3 March 1707. In the preceding period of Turkish rule (Sultans of Delhi), there was some opposition to the theory that the monarch was the shadow of God in very orthodox circles of Muslim thinkers; but it did not last long. 'With the arrival of the Mughals it gathered a new force and reached its high watermark under Humayun and Akbar.'

Tripathi writes : 'A study of the Muslim kingship in India shows that on more than one occasion it showed promising signs of

assuming a constitutional form. The Muslim theory was constitutional and democratic in its character, a fact which ought to have given a powerful lever to the rise of constitutional monarchy. Yet kingship in India could not rise above benevolent despotism and a sort of paternal rule.<sup>1</sup> In Muslim India, there were no representative assemblies. The council of the Muslim sovereign was chosen by him and consulted by him, when he pleased.

Mughal government was monarchical in structure with the monarch as centre, round which moved the entire administrative machine. The Mughal Emperors took great pains for proper administration of justice and provided means through which justice could be administered all over the empire. Notwithstanding many shortcomings in the Mughal government, it gave for about two centuries unity to the country and comparative stability, which produced a congenial atmosphere for progress and general prosperity.<sup>2</sup>

In the reign of Akbar many important changes took place in the nature and organisation of the central government. He fixed the powers and responsibilities of his ministers with due regard to the practices of the former Sultans of Delhi. Just as the Sultans had a Naib Sultan, Akbar had a *Vakil*, which literally means a representative. The next officer below the *Vakil* was the *Diwan-i-Ala* (High Diwan), who presided over the finance department. When the High Diwan specifically enjoyed the status of the Prime Minister, he was called the *Wazir*. An idea of the scope and importance of his functions can be had from the number and nature of his principal lieutenants, viz. (1) *Diwan-i-Khalsa*, incharge of crown lands; (2) *Diwan-i-tan*, who dealt with jagirs and salaries; (3) *Mustaufi*, who audited income and expenditure; (4) *Waqianaivis*, who was incharge of records; and (5) the *Mushrif*, who was in general charge of the secretariat and auditing of accounts.

Other important ministers of the Central government were : (a) *Khan-i-Saman*, head of *Karkhanas* (factories), (b) *Mir Bakshi*, head of military department, and Pay-master general of the empire, (c) *Sadar-i-Jahan*, head of the ecclesiastical department, (d) *Darogha-i-Topkhana*, head of the gunners and the musketeers, (e) *Darogha-i-Dak Chauki*, head of the information and intelligence department, and (f) *Mir Munshi*, incharge of drafting letters and farmans. Significant and particularly developed aspects of Mughal administration were : the fiscal system, military organisation, mansabdari system and the judicial system.

Under the Mughals the northern two-thirds of India were divided into provinces (*Subahs*), the provinces into districts (*Sarkars*), and the districts into sub-divisions (*Parganas*). At each level there

<sup>1</sup> R. P. Tripathi, *Some Aspects of Muslim Administration*, 152.

<sup>2</sup> U. N. Day, *op. cit.*, Preface, xiii-xiv.



were officers with revenue and judicial functions sometimes, exercising both, and at other times having them combined. Important officers at the provincial and district levels were the *Subedar* (the governor), the *Diwan*, the *Sadr*, and the *Qazi*, and important officers at the sub-divisional level were the *Faujdar*, *Kotwal*, *Amil*, *Qazi* and *Sluqdar*.

Jadunath Sarkar observes : 'The administrative system of the Mughal empire has more than an academic interest for us. This type of administration with its arrangement, procedure, machinery and even titles, was borrowed by the Hindu states outside the territory directly subject to Muslim rule. But the Mughal system was also the model followed by some independent Hindu States—of the time. Even a staunch champion of Hindu orthodoxy like Shivaji at first copied it in Maharashtra and it was only later in life that he made a deliberate attempt to give a Hindu colour to his administrative machinery by substituting Sanskrit titles for Persian ones at his court; but most of the names of departments, records, and subordinate officials in his kingdom remained Islamic where they were not indigenous Marathi.'<sup>1</sup> Thus, the Mughal system at one time spread over practically all the civilized and organised parts of India.

According to him the imported foreign elements in the Mughal administrative system were : (1) Mughal governmental system took its colour from the race and creed of its sovereigns—foreign Muhammadan dynasty—Turkish conquerors. (2) The government was military in its origin and though in time it became rooted in the soil, it retained its military character to the last. (3) The main point to be noted about the land revenue system of Mughal India is its long and close adherence to the old practice, procedure and even tradition of the country. Indeed, the early Muhammadan conquerors very wisely retained the old Hindu revenue system intact, employed the old Hindu revenue officials, and seldom interfered with the working of this department so long as the land tax was regularly collected and there was no striking default or peculation. (4) In Mughal India the State was the largest manufacturer or rather

<sup>1</sup> J. N. Sarkar, *Mughal Administration*, 1-2.

Shivaji established a more or less analogous machinery. His principal ministers were eight and each one of them was called *Pradhan* (Head). Hence his Council of Ministers was collectively known as the *Ashta Pradhan*. The official titles and functions of the members were : (1) The *Peshwa* or the *Mukha Pradhan*, who attended to all types of government business, and acted under the direction of the *Chhatrapati* himself. (2) The *Senapati* was in charge of organising the army and keeping it in proper shape and discipline. (3) The *Amatya* maintained a record of the revenue and expenditure of the state and scrutinized papers received from the *chitnis* and the *fadnis*. (4) The *Sachiva* drafted letters on behalf of the *Chhatrapati* and affixed his seal of approval on all official letters and orders. (5) The *Sumanta* was the foreign minister. (6) The *Mantri* was incharge of the diplomacy and war and peace. (7) The *Panditrao* was incharge of the ecclesiastical department. (8) The *Nyayadhish* had jurisdiction over all types of cases.

the only manufacturer on a large scale in respect of several commodities—the commodities it needed were cloth and ready made robes. Skilled workmen were brought together from distant provinces and were placed under a government superintendent (darogha). (5) The Mughal government was a highly centralised autocracy. The Crown was the motive power of the entire administrative machinery. (6) The Mughal government was weakest and least capable of improvement and expansion in the field of law and justice.<sup>1</sup>

### III. MODERN PERIOD : Evolution under the Company Rule

It is often forgotten in the twentieth century that the British in the eighteenth century had little experience in governing a colony such as India. Although by the eighteenth century some of the basic legislative framework of Great Britain had been formed, there was little the British in India could draw on from the home country in the way of administrative experience. In the latter part of the eighteenth century, when they began to develop an administrative system for India they drew from the only model at hand, the Mughal administrative system. The British not only borrowed heavily the structure of the system, but to some extent took over the feeling tone of the Mughal administration, a mixture of great pomp and show, and combined benevolent and despotic intervention. The British developed a theory of the welfare state in India long before it was thought of for England, and part of this development was borrowed from the Mughals.<sup>2</sup>

‘The birth of the modern State in India may be traced back roughly two and a half millenia.... There has been a continuity, both at the national level and at the same time, if somewhat differently at the level of the village community. Upon all these have been established and nourished the more deeply rooted elements of the system. Moreover, the emergence of Muslim and Mughal rule in India introduced some new elements in the methods of government. Nevertheless, it was the two and a half centuries of British rule in India which had a profound impact on Indian political and governmental structure and shaped the structural and methodological pattern of the government of independent India.’

The Arthashastra sets out in detail the basic precepts and guidelines for the structure and functioning of good government in those times. Present-day government in India has borrowed the term Mantri-Parishad (Council of Ministers) : ministers are called Mantri, the Prime-Minister is called Pradhan Mantri. ‘The Mantri Parishad

<sup>1</sup> *Ibid.*, 3-4.

<sup>2</sup> Bernard S. Cohn, *The Development and Impact of British Administration in India*, 7-8.

would deliberate upon matters of every kind; they would do so before the king decided upon the particular issues. We may recognise in this the process of decision-making by the king-in-council similar to the more recent system of the Secretary of State-in-Council, and the Viceroy-in-Council in India. A point to note is that the Mantri Parishad was consulted upon, and discussed every matter upon which the ruler had to decide.'

Manu describes the pattern of local administration of the time. Each village community had a headman, who presided at meetings of the village panchayat, and generally helped to keep the system functioning. About one thousand villages were administratively grouped together with an official not unlike the present district officer. In Mughal times, Emperor Akbar's system divided the country into much the same kind and size of district, each such unit being defined as a 'sarkar.' The British continued with the district pattern of administration as a convenient unit to which the people were accustomed. The tradition of the Panchayat too was continued through the centuries since Manu. It was preserved by the Mughals, the British bore with it and used the system in various ways for village administration, including settling of disputes and the trial of offences in minor cases. With the advent of Independence, there was a revival of the ancient panchayat tradition in the ambitious scheme of Panchayati Raj.<sup>1</sup>

The second main stream which has conditioned the evolution of the present system of government in India, and with it the institutions, organisation and methods of the central (as well as the state) executive, is the system of parliamentary democracy in Britain. The governmental system under the Constitution of India is patterned closely upon the British system of parliament, judiciary and executive. This is true, both in the case of the central government and also the States of the Indian Union.<sup>2</sup>

So far as the growth of Indian administration under the British is concerned, it was characterized by two main features—first, development of parliamentary democracy; and second, the unification of the country. However, the fact is that both these features reached their culmination only in free India, after the enforcement of the Constitution of India in January 1949. We would now, therefore, briefly trace the growth of Indian administration under the British rulers.

In the 16th century India had reached the height of its glory and the account of its fabulous riches had already spread far and wide. Enterprising Englishmen, like other European traders, established the East India Company on 31 December 1599. At that time the Mughal Empire was at its zenith and the Emperors in their pomp

<sup>1</sup> S. S. Khera, *The Central Executive*, 10–13,

<sup>2</sup> *Ibid.*, 13–14,

and glory never suspected that a company of petty traders would one day establish an empire in the country. After the death of Aurangzeb (1707), the Mughal Empire began to disintegrate. The central administration was paralysed; and the East India Company took advantage of the worsening situation.

In the north the Battle of Plassey, 1757, led to the establishment of British supremacy over the Nawab of Bengal. As a consequence of that the following arrangements with the succeeding Nawabs of Bengal, the real authority passed into the hands of the English Company. The defeat of Mughal Emperor's forces at the battle of Buxar in 1764 led to the grant of Diwani (i.e. the rights of revenue collection and judicial administration) by the Emperor to the Company. The Nawab of Bengal granted practically the Nizamt (i.e. military power and criminal justice) to the Company in the following year. Thus the Company was given control over the province, but its authorities did not feel any responsibility for good administration. So Warren Hastings was appointed in 1773 with a view to end the dual system of government.

#### THE REGULATING ACT OF 1773

During this period, 'the reputed riches of the country had the result predicted by Clive. Influence was exerted from the royal family downwards to secure posts in India for hangers-on and younger sons of noble or rich families, and the new-comers were intent only on acquiring fortunes. While the proprietors insisted in 1766 on raising the dividend from 6 to 10 per cent and in 1767 demanded 12½ per cent, the outcome of the enquiry by a committee of the House of Commons in 1766-67 was the demand of the State for the payment of £ 400,000 a year, in return for which the Company might retain its territorial acquisitions.'<sup>1</sup>

Whilst the servants of the Company were amassing huge fortunes, the Company itself was advancing rapidly to bankruptcy. In 1772 it was forced to beg the British Government for loan. The same year British Parliament appointed a Secret Committee to enquire into the affairs of the Company and submit its report. As a result of that the British Parliament passed the famous Regulating Act in 1773. For the Government of the Presidency of Bengal a Governor-General and four councillors were appointed. The whole Civil and Military government of this presidency and also the administration of all the territorial acquisitions and revenues in the territories of Bengal, Bihar and Orissa were vested in the Governor-General-in-Council.

Thus the supremacy of Bengal Presidency over the others was definitely declared; because the Governor-General and Council were given the power of superintendence and control over the government

<sup>1</sup> A. B. Keith, *Constitutional History of India*, 55-58.

and management of other presidencies. The Governor General-in-Council were required to obey the orders of the Court of Directors and keep them constantly informed of all matters relating to the interest of the Company. The Governor General-in-Council was also empowered to make and issue rules, ordinances and regulations for the good order and civil government of the territorial possessions of the Company. But these could not actually come into force until duly registered and published in the Supreme Court.

The Regulating Act made a bold attempt at securing good government for the Company's territory in India, without the Crown directly assuming the responsibility for the same. It introduced the thin end of the wedge of direct administration by the Crown, by insisting on securing timely information from the Company about its affairs in India. It prohibited private trade and acceptance of gifts by the Company's public servants. Its principle of collegiate authority in the Governor General-in-Council remained substantially unmodified till 1861.

The Regulating Act provided some form of parliamentary check on the autocratic administration of the Company; but it created a Governor-General who was powerless before his own Council and an Executive that was powerless before a Supreme Court. The Amending Act of 1781 removed some of the defects of the previous Act. According to Fox, 'The existing system of Company's administration in India was a government of anarchy and confusion.' In 1783 he introduced his India Bill, which was rejected by the Upper House, after having been passed by the House of Commons. Consequently, Fox resigned and Pitt succeeded him as Prime Minister. Pitt got his famous Pitt's India Act passed by Parliament in 1784.

#### PITTS INDIA ACT, 1784

*Main Provisions.* First, the Act constituted a Board of Control consisting of 6 commissioners over the Court of Directors. It was given comprehensive power as it was empowered 'to superintend, direct and control all acts, operations and concerns which in any wise related to the civil and military government and revenues of India.' Moreover, it was authorised to issue orders and directions to the Government of India and the Governments of the Presidencies. Secondly, the Directors were left with the power of making appointments to different offices in India and the power of revising and reviewing the acts of Indian Administration. Thirdly, the Governor General-in-Council was given the power of superintendence, direction and control over the Governments of the Presidencies. This made uniform policy possible; thus one step further in the process of unifying the administration was taken by the Act. Fourthly, the Act made an important amendment in the constitution of the

Executive Councils. The Governor General's Executive Council consisted of only three members, one of them being the Commander-in-Chief. The Governor-General was appointed by the Directors with the approval of the Crown; but such approval was not required in the case of the appointment of the Governors or members of the Executive Councils.

The Act introduced the system of dual control. But it failed to define precisely the relations between the Board of Control and the Court of Directors. The dual control made the position of the Governor-General very difficult; because he had two masters in the Home Government. The administration of the Company became cumbersome and dilatory. However, this system with its elaborate procedure of checks and counterchecks, though modified in detail, remained substantially in force until 1858. Lord Palmerston in 1858 clearly pointed out its defects in these words : 'The functions of Government and the responsibility have been divided between the Board of Control, the Court of Directors and the Governor-General in India, and among these authorities it is obvious that despatch and unity of purpose can hardly by possibility exist. Before a dispatch upon the most important matter can go out to India, it has to oscillate between the Common Row and the India House.'

The first important amendments to the above Act were made in 1786. In that year Lord Cornwallis was appointed Governor-General and he accepted the appointment on condition that his powers would be enlarged. Accordingly an Act was passed which empowered the Governor-General in special cases to override the majority of his Council and act on his own responsibility. The Company was given a new charter by the Act of 1793, for a period of 20 years. The Governor-General and the Governors were given the power to override the majority of their Councils. The control of the Governor-General over the Presidencies was emphasised. The form of procedure in Council was regulated ; and it was enacted that all orders etc. should be expressed and be made by the Governor-General (or Governors as the case might be) in Council, a style that continued till responsible government was introduced.

The Charter Act of 1813 renewed the charter of the Company for 20 years; but it was deprived of its monopoly of trade with India, though it was allowed to enjoy her monopoly of trade with China for a period of 20 years. Thus subject to certain restrictions, trade with India was thrown open to all British merchants.

The Charter Act of 1833 abolished the Company's monopoly of trade with China as well. The Company (for the first time styled as 'East India Company') ceased altogether to be a mercantile corporation. The Governor-General was conferred the title of 'Governor-General of India'. A fourth member, known as law

member, was added to the Council. However, he was not to sit or vote at meetings of the Council convened for purposes other than for making laws and regulations. T. B. Macaulay was the first law member.

The Governor-General in Council was empowered to make 'laws and regulations' for the whole of India; thus the legislative powers of the Presidency Governments were taken away; and they could only propose draft schemes. This brought about legislative centralization in the country. The laws passed by the Governor-General in Council came to be known as Acts, whereas formerly they were called Regulations. However, the Acts thus passed were liable to be disallowed by the Court of Directors. A Law Commission was also appointed for codifying Indian laws.

Section 87 of the Act for the first time laid down that no native of India shall, by reason of his religion, place of birth, descent or colour be disabled from holding any office under the Company. 'It was a grandiloquent gesture worthy of the first reformed Parliament. But otherwise it meant little. No one could hold an office in India carrying a salary of £ 500 a year or more unless he had been nominated to a vacancy by the Directors in England. Despite this declaration Indians remained excluded in both the Civil and Military departments from any but the most minor jobs.

#### THE CHARTER ACT OF 1853

The main provisions of the Act were : (1) The powers of the East India Company were again renewed 'but only until Parliament shall otherwise provide'; moreover it was to hold Indian territories in trust for Her Majesty, her Heirs and successors. The Act reduced the number of Directors from 24 to 18, of whom six were to be appointed by the Crown. (2) The Council of the Governor-General was remodelled by the admission of the fourth *i.e.*, legislative member as an ordinary member for all purposes. The Commander-in-Chief was made an extraordinary member of the Council. (3) The Act provided for the association of six additional members with the Executive Council for legislative purposes only. Of these six, one was an official representative of each of the provinces, chief justice and one judge of the Supreme Court. Thus the first Indian Legislative Council as such consisted of 12 members and law-making was now separated from the executive business of the council. The consent of the Governor-General was made necessary for all legislative measures. (4) The Act deprived the Court of Directors of their power of patronage. In future, vacancies in the covenanted service were to be filled up by competitive examinations.

It was the last in the series of Charter Acts. It carried the separation of the legislature from the executive a step farther and further diminished the powers of the Court of Directors. However, its greatest defect was that it made no provision for the association

of Indians with the work of legislation. Lord Dalhousie, who had taken over as Governor-General in 1848, enlarged the British dominion in India not only through 'conquest but also through what is commonly known as the doctrine of lapse *i.e.* through the failure of heirs.' He believed that he was bequeathing a peaceful India to his successor in office, little knowing that he had sown seeds of discontent which were bound to germinate soon and be a source of grave danger to British rule in the country.

#### ORGANIZATION OF CENTRAL GOVERNMENT DEPARTMENTS

In 1774, the work of the Supreme Government was transacted in three Departments, viz. the Public, the Secret and the Revenue Departments. The Public Department was made responsible for shipping revenues, fortifications, accounts, appointments, etc. and the secret department conducted the work connected with military plans and all transactions with the Government in England. The management of revenue and judicial affairs was the responsibility of the Revenue Department. The Public and Secret Departments were headed by a single Secretary till 1783, when separate secretaries were appointed. The Revenue Department was headed by a separate Secretary from the very beginning.

A number of new Departments were established during the period 1773-1833. A Military Board consisting of Governor-General and Council was established in 1776. In 1783, a separate branch known as the Foreign Department was established to look after the affairs of foreign nations in India. The Foreign Department was placed under the charge of the Secretary in the Secret Department. Thus, towards the end of the 18th century, there were four Secretaries heading the various Departments of the Supreme Government. A Chief Secretary was in general control of all Departments.

The year 1843 is significant in the administrative history of the Government of India, as it was in that year that an entirely separate secretariat for the Government of India was set up. The Secretariat was organised into the following four Departments, each under a separate Secretary. (1) Judicial, Legislative and Ecclesiastical Branches; (2) Foreign Department (consisting of Political, Foreign and Secret Branches); (3) Finance Department; (4) Military Department. A separate Department of Public Works was established in 1855. Its necessity arose from the great magnitude and ever-increasing importance of public works, especially of irrigation, railways and buildings.

#### IV. MODERN PERIOD

##### THE ACT OF 1858

This period covers the evolution under the supremacy of British Parliament. The events of 1857 brought the company rule to an end.



The Mutiny gave an impetus to the demand that a commercial company should no longer be allowed to control and direct the government of India. The Act for the better government of India enacted in 1858, had the following main provisions : (1) It transferred the Government of India from the Company to the Crown, Indian administration became henceforth the direct responsibility of the British Parliament; (2) the Board of Control and the Court of Directors were abolished and all their powers were assumed by a Minister of the British Cabinet, known as the Secretary of State for India, who was paid out of Indian revenue; (3) the Act created a 'Council of India,' consisting of 15 members—seven of whom were elected by the Court of Directors and the remaining eight were appointed by the Crown; and (4) it divided the patronage among the Crown, the Secretary-of-State in Council, and the authorities in India; and it required the Secretary-of-State in Council to lay every year before both Houses of Parliament a financial statement about the revenues of India, accompanied by another statement showing the moral and material progress and condition of India.

#### THE INDIAN COUNCILS ACT, 1861

Chief among the causes of the Indian Revolt of 1857 was the lack of any real touch between the rulers and the ruled. Sir Syed Ahmad had rightly pointed out that the exclusion of Indians from the Councils had deprived the government of the opportunity of knowing the views of the people and of removing any misunderstandings that might exist among the people about the views and intentions of the Government. In addition to this there were certain other reasons which led to the passing of the Act of 1861. (1) The system of making laws in India was gravely defective, since the Government of India had to make laws for the whole of British India in matters small and great, but it was not qualified to do so; (2) The Indian Legislative Council, from the official point of view had become a sort of debating society or petty parliament; (3) The Act of 1858 had brought about a change only in the controlling and directing machinery of Indian Government, without making any change in the system of Indian administration. This alone could not bring any satisfaction to the people of India. The truth is that a real change as regards principles of government in India came not in 1858 but in 1861.

Its main provisions were : In the central sphere first, it enlarged the Executive Council of the Governor-General by the addition of a fifth ordinary member, who was required to be a gentleman of legal profession, a jurist rather than a technical lawyer. Secondly, it empowered the Governor-General to make rules and orders for the more convenient transaction of business in the Council. Under this rule-making power Lord Canning introduced the well-known portfolio system, *i. e.*, each member was placed in charge of some

particular administrative department of the Government of India. Thirdly, it enlarged the Governor-General's Legislative Council for purposes of legislation by the addition of six to twelve additional members, half of whom were required to be non-officials. It was by virtue of this provision that some Indians were associated with the work of legislation.

In the provincial sphere : The Act restored to the Governments of Madras and Bombay powers of legislation, subject to Governor-General's previous sanction in certain cases and the veto power of the Governor-General. For this purpose each presidency Governor was empowered to nominate the Advocate-General of the Presidency and between four and eight other additional members, half of whom were required to be non-officials. The Governor-General was also directed to create Legislative Councils for Bengal, North Western Provinces (U.P.) and the Punjab which were created in 1862, 1886 and 1897 respectively. The Governor-General was further empowered to create new provinces for legislative purposes and to appoint Lieut. Governors for them.

#### THE INDIAN COUNCILS ACT, 1892

It was the first result of the efforts made by the Indian National Congress. The relevant provisions of the Act were : (1) The Act increased the number of additional members. The number of such members in the Indian Legislative Council could vary between 10 and 16; in the case of Bombay and Bengal Legislative Councils it was to be fixed by the Governors concerned between the limits of 8 and 20; and the Governor-General in Council could also increase the size of Legislative Councils in other provinces; (2) The Governor-General in Council was authorised, with the approval of the Secretary-of-State in Council, to make regulations as to the conditions under which such nominations were to be made by the Governor-General and the Governors and also to prescribe the manner in which such regulations were to be carried into effect. It was under this power that a sort of indirect election for these nominated members was introduced.

#### THE INDIAN COUNCILS ACT, 1909

The main changes brought about by the Act were : (1) It increased the strength of each Legislative Council; and a Council consisted of three classes of members—the officials, the elected and the nominated non-officials. In the Imperial Legislative Council officials were in a substantial, but not an overwhelming majority; their number was 36 in a house of 68. In the Provincial Legislative Councils there was yet no majority of the elected members except in the case of Bengal Legislative Council which had 28 elected members in a total of 52. (2) The Governor-General in Council, subject to the approval of the Secretary-of-State was authorised to

make regulations as to the conditions under which and the manner in which persons resident in India might be nominated or elected. However, under Regulations framed for the purpose, no special qualifications were laid down in the Regulations in the case of the nominated (non-official) members. In the case of the elected members, electoral rules were laid down by the Regulations. The electorates were divided into three main classes—General Electorates, consisting of the non-official members either of Provincial Legislative Councils or of the Municipal and District Boards; Class Electorates, including (a) Land-holders, (b) Mohammedans and Special Electorates; consisting of Presidency Corporations, Universities, Chambers of Commerce, etc. (3) The Act also empowered the various governments in India to make rules for extending the business of the Councils. The main advance was in connection with the expansion of the powers of discussion especially in financial matters. The Rules of the Imperial Legislative Council permitted the members to make and discuss resolutions on matters of general public interest, subject to certain limitations. (4) The Governor-General in Council, with the approval of the Secretary-of-State, was empowered to create a council in any other province under a Lieut. Governor. Every member of such councils was also an ex-officio member of the Legislative Council of the province.

#### THE GOVERNMENT OF INDIA ACT, 1919

It was enacted by the British Parliament in order to implement the announcement of 20 August 1917, made by Mr. Montague, the Secretary of State for India. In this announcement he had clearly stated that the goal of British policy in India was the progressive realization of responsible government by successive stages. Soon after the announcement Mr. Montague came to India to discuss its application on the spot and conduct a joint inquiry with Lord Chelmsford, Viceroy in India. A Report on Indian Constitutional Reforms, popularly known as Montford Report, for which Mr. Montague and Lord Chelmsford were jointly responsible, was published in 1918. The main features of the reforms-scheme embodied in the Government of India Act, 1919 may be summarised as under :

1. In order to facilitate the introduction of responsible government in the Provinces, the devolution of powers from the Centre was extended and legalised. A distinction was, therefore, made between the Central and Provincial subjects and the provinces were given a greater measure of freedom to administer the provincial subjects.
2. A beginning in responsible government was made by dividing the provincial subjects into two groups—reserved and transferred—and by placing the latter under the charge of elected Ministers responsible to the Legislative Councils. The former were administered by the

Executive Councillors as in the past. This dual system of executive was known as Dyarchy.

3. The Provincial legislative Councils were substantially enlarged. In all of them the majority of members were elected. For the purpose of election, the franchise was widened so as to bring a substantial body of country-folk into the political field.

4. No responsibility was introduced in the Central Government, which continued to be as autocratic and bureaucratic as before. Thus the Central Government remained responsible through the Secretary-of-State for India to British Parliament. But the number of Indian members in the Viceroy's Executive Council could easily be increased.

5. The Central Legislature was reconstituted on a bicameral basis. The upper and lower houses—known as the Council of State and the Central Legislative Assembly respectively—contained a majority of elected representatives. The elections to both the houses were made direct, though on a very much restricted franchise. Thus there were considerable changes of a far-reaching character in the structure of the Central Legislature. But it did not contemplate anything like a federal constitution; and the form of Indian State continued to be unitary.

6. The control of the Secretary-of-State and British Parliament over Indian affairs was relaxed in some measure. There was also a provision for the appointment of a High-Commissioner of India in the United Kingdom, who took over the agency functions from the Secretary-of-State.

7. The Governor-General and the Governors were vested with many special powers, which could be used over a wide range of subjects.

8. The provinces were granted a greater measure of independence but only as agents of the Central Government. Under the Government of India Act, 1919, the position of the Indian States was not affected. However, a Princes' Chamber was created in 1921.

The Government of India Act, 1919 is one of the most important landmarks in the constitutional development of India. The importance of the Act of 1919 may be stated in the words of Sir Reginald Coupland : 'The Government of India Act, 1919 was by far the most important measure of Indian policy adopted by the British Parliament since the process of constitutional development began in 1861, as it crossed the line between legislative and executive authority. Previous measures had enabled Indians increasingly to control their Legislatures but not their Governments. Some Indians, it is true, had been members of those Governments, but they had been officially appointed and were responsible, like their colleagues, to the Secretary-of-State and Parliament. Now Indians were to govern, so to speak on their own. They were to take charge of great depart-

ments of Provincial administration, not as official nominees but as the leaders of the elected majorities in their Legislatures and responsible only to them.

'Even more striking than the transfer of executive power was the constitutional method by which it was to be exercised, namely responsible government as understood and practised in Britain. The transferred field was to be governed under the British parliamentary system. The reason for that was concisely stated at the outset of the Report. Englishmen believed in responsible government as the best form of government they knew, and now in response to requests from India they have promised to extend it to India.'<sup>1</sup>

#### THE GOVERNMENT OF INDIA ACT, 1935

The most important feature of the Act was the federal form of government introduced under it. It abolished dyarchy in the provinces and the scheme of Provincial Autonomy was introduced from 1 April 1937.<sup>2</sup> The Act provided for a federation at the Centre, but, the same could not be established due to several reasons which need not be discussed here. Consequently, under a federal form of constitution, the Central Government, as it had been constituted under the Government of India Act, 1919, continued in existence even after 1937, with certain necessary changes, for example, the division of subjects into federal, provincial and concurrent and other changes in relationship between the central and provincial governments in the financial as well as administrative spheres. All these important changes and provisions have been discussed in relevant chapters.

#### FIRST CENTRALISATION THEN DECENTRALIZATION

Before 1773 the Presidencies of Bengal, Bombay and Madras were almost independent of each other. The Regulating Act of 1773, however, made a beginning in the policy of centralisation, by subordinating in certain matters the Presidencies of Bombay and Madras to the control of the Presidency of Fort William. This was the first step in the introduction of unity of control from the Centre over all the British Indian territories. The process went on. The Charter Act of 1833 was another important step in the direction of legislative and administrative centralisation. The rapid means of communication helped in the further development of centralization. Thus when the Mutiny of 1857 broke out the system of government in India was highly centralised and the Government of India exercised complete control over the Provincial Governments.

<sup>1</sup> R. Coupland, *India—A Re-Statement*, 113.

<sup>2</sup> The scheme has been discussed in the following pages as the last phase of decentralisation (or devolution) of power during the British rule.

But the conditions created by the Mutiny started the reverse process. The defects of the system, the extravagance that it entailed, the lack of any connection between Provincial needs and the distribution of funds among the Provinces, the indifference and the apathy of the Provincial Governments in the growth of revenue collected through their agency—all pointed the way to some sort of decentralisation in finances and administration in the interest of efficiency. The process of financial decentralisation was initiated by Lord Mayo's Government in 1870. It was continued till the system of 'provincial financial settlements' was made permanent by Lord Hardinge.

The Announcement of 20 August 1917 and the introduction of partial responsibility in the Provinces by the Act of 1919 necessitated a change in the centralised system of Indian Government. This further led to the idea of Provincial Autonomy which in its turn led to the idea of Indian Federation. Even the authors of the Montford Report had declared: 'Our conception of the eventual future of India is a sisterhood of States, self-governing in all matters of purely local or provincial interest.' This idea was strongly supported by the Simon Commission which wrote: 'Apart altogether from any question of an ultimate federal union between the Indian States and British India, there are, we think, very strong reasons for the reconstruction of the Indian Constitution on a federal basis.'

#### PROVINCIAL AUTONOMY

The Government of India Act, 1935 introduced great changes regarding the status and powers of the Governor's Province. The administrative structure established by the Government of India Act, 1919, was totally changed as dyarchy was abolished and almost complete power was transferred to the elected representatives of the people, although a number of safeguards had also been provided for. Full responsible government in the Provinces necessarily led to the devolution of authority in all matters of provincial concern. Provincial autonomy might be understood to mean (a) a government responsible to a popularly elected legislature; and (b) freedom for each provincial government to exercise its authority within this field without any interference or control from outside. It was naturally the culmination of a long course of constitutional development in British India.

The executive authority of the Provinces extended to matters in respect of which the Provincial Legislature had powers to legislate, under the provisions of the Act. It was exercised by the Governor directly or through officers subordinate to him. But the Provinces now derived their powers directly from the parliamentary statute of 1935, as was not the case prior to the introduction of provincial autonomy. The provincial executive consisted of the Governor and the Council

of Ministers. The Governor was the head of the executive. The appointment of the Governors was made by his Majesty, and as the Joint Parliamentary Committee's Report emphasised 'the Ministers were not concerned with the appointment of the Governors.'

No department was reserved to the discretion of the Governor except the administration of wholly Excluded Areas. But under the Act, the Governor was empowered to act in his discretion in respect of several functions and to exercise his individual judgment in the sphere of his Special Responsibilities. However, in the sphere which was subject to his discretion and individual judgment, the Governor was under the control of the Governor-General. All executive action in the Province ran in the name of the Governor.

#### THE INDEPENDENCE OF INDIA ACT, 1947

The Independence of India Act was passed by the British Parliament on 18 July 1947. It is a document of extraordinary simplicity, consisting of less than 20 sections and 3 schedules. It left all incidental matters, as they arose, to be dealt with by the Governor-General of India. It came into operation on 15 August, 1947. The Government of India Act, 1935 was amended and adapted by the Indian Provisional Constitution Order, 1947. In the Executive sphere the changes were incorporated in the amended Act and provisions relating to Reserved subjects, Special Responsibilities, Instrument of Accession, Superintendence of the Secretary-of-State, were naturally omitted. The old Houses of the Central Legislature were brought to an end and the Constituent Assembly became the Dominion Parliament. But the restrictions which formerly existed on the powers of the legislature were also removed. No changes of substance were made in the position of the judiciary.

#### ORGANISATION AND GROWTH OF DEPARTMENTS

Before the introduction of the portfolio system in 1862, the consideration that prevailed was the equitable distribution of work among various departments. But after the introduction of the portfolio system the distribution was effected with an eye to the workload of the members of the Council as well. The first major distribution of work among different departments effected by the Governor-General in Council under the Indian Councils Act (1861) took place in 1876, while the next took place under the rules and orders established by Lord Elgin on 19 August 1898.

During 1858 and 1919 there was an enormous increase in the activities of the Government of India. This led to the creation of a number of new Departments. In 1869, the Legislative Department was set up to look after the legal matters of the Government. Another new department, the Department of Revenue, Agriculture and Commerce was created in 1871, but it was abolished

in 1879. It was, however, again established as Department of Revenue and Agriculture in 1881. The Railway Board, a statutory body, was set up in the same year for the administration of the railways and was placed under the Department of Commerce and Industry. But it was separated from the Department of Commerce and Industry in 1910 and was placed under a newly created Railways Department. In 1910, the Education Branch of the Home Department was converted into a separate department.

Radical changes took place in 1937 in the departmental reorganisation of the Central Secretariat. The most important of these was the bifurcation of the Foreign and Political Department into two separate departments viz., the External Affairs Department and Political Department. The Political Department, which dealt with the Indian States, was placed directly under the control of the Governor-General as the 'Crown Representative'. Another important change that took place in 1937 was the division of the Department of Industries and Labour into two separate Departments, viz., the Department of Labour and the Department of Communications. The Department of Labour dealt with labour, migration, mines, printing and stationery, public works, safety legislation and administration, and technical education. The Department of Communications dealt with civil aviation, meteorology, ports and inland navigation, posts and telegraphs and roads. The work relating to copyright was transferred from the Department of Industries and Labour to the Department of Education, Health and Lands, and that relating to ecclesiastical matter to Defence. In July 1942 a new Defence Department was created; and the function of this new Department was to deal with questions concerning defence. The major changes that took place after 1945 were the splitting of the Department of Education, Health and Lands and the Department of Labour. The former was divided into three separate departments, viz., the Department of Education, the Department of Health, and the Department of Agriculture.

#### COMMENTS

According to Maheshwari, the evolution of Indian administration in the post-1858 period was marked by two developments. The British attitude towards Indians became, as an aftermath of the uprising of 1857, one of sullenness, distrust, and even hostility. Consequently, the Indian administration was increasingly sequestered from the people of the land. The second development was a slow but gradual emergence of political awakening symbolized by the setting up in 1885, of the Indian National Congress. The educated Indians, raised the demand for the simultaneous holding of the competitive examination for entry into the Indian Civil Service in England and India, a large share in the public service of the land



and also a participation in the Government. The political movement acquired a popular following and adopted the goal of self-government. As a result, the nationalist movement and the administrative system of the country began inter-acting on each other.<sup>1</sup>

Cohn also writes : 'Discontentment under British rule reinforced by the formation of an articulate Indian public opinion and a re-examination of Indian thought and culture by Indians was a paramount problem in the late nineteenth century and the early twentieth century, and increasingly absorbed the time of the British administration in the twentieth century.'<sup>2</sup>

With the opening of the Suez Canal in 1869 and the development of direct telegraph communication between London and Calcutta, the top level of the Indian administration in Calcutta and around the Viceroy was subjected to direct control and check from London in a greater degree than before. The Lieutenant-Governor and his advisers and the departments which grew up in the provincial capitals tended to be the focus of interest for administrators.

According to Dr. Misra, a remarkable feature of Indian administration, as of any other modern organisation, has been a gradual supersession of custom by law in the management of public business. 'Though given to immense variety and discretion, the former regulated social action by tradition-bound consensus which differed from place to place. It was, however, self-regulatory and it hardly needed a formal agency to enforce its sanction. The latter, on the other hand, conduced to uniformity. It was formal and rigid in its constitution and its sanction could not be forced except by the machinery of Government. The Mughals or the Marathas relied on custom, while the British recognized the rule of law as the basis of their political and administrative system.

'A cumulative effect of British rule was that those who had the power and influence in the traditional society were weakened and deprived of initiative and local leadership, while those who had been servile and inarticulate were in law recognized as occupancy tenants, tending to assert their independence of zamindars without in any way contributing to the strength of Government. The educated middle class, whom it had been part of British policy to promote, gained at the cost of both. It grew as a result of English education, but more especially from considerable litigation between landlord and tenant which made for the progress of the legal profession. However, its role, as the author's study in the Indian middle classes shows, remained by and large selfish and confined to sectional political interests. There were religious and social-reform movements in the nineteenth century. But these were either very limited in their appeal

<sup>1</sup> S. R. Maheshwari, *The Evolution of Indian Administration*, 4.

<sup>2</sup> Bernard S. Cohn, *op. cit.*, 26.

or reform revivalist in their character.... Thus the only effective instrument left to bring about social and economic change was the instrument of Government. Not even Ripon's policy of local self-government or the recommendations of the Royal Commission on Decentralisation treated local bodies as being exclusive of the machinery of Government. These were to form part of it. The recent concept of a welfare state, coming as it did in the wake of totalitarian revolutions in Europe, further increased the importance of governmental bureaucracy as the agency of social change, but it also tended to curb individual freedom.<sup>1</sup>

In the end, we give the major beliefs and convictions which informed the system of administration under the British. First, since the beginning of its rule, the British Government believed in the oriental display of pomp and show. To emphasize its direct and natural succession to the Mughal Empire, it took over all the ostentation, pomp and splendour of Mughals, and revelled in this until the day of its sunset. Secondly, it set its face firmly against interference with the religious and social customs and traditions of the Indians. Thirdly, notwithstanding Queen Victoria's assurance, namely our subjects, of whatever race or creed, be freely and impartially admitted to offices in our service, the duties which they may be qualified, by their education, ability and integrity, the superior public services of the country were treated as a preserve of the Englishmen; as the British rule was considered to be compatible only with the British holding key positions in administration.<sup>2</sup>

<sup>1</sup> B. B. Misra, *Administrative History of India, 1834-1947*, 645-48.

<sup>2</sup> S. R. Maheshwari, *op. cit.*, 6.

## CHAPTER II

# CONSTITUTIONAL FRAMEWORK

### I. FUNDAMENTAL RIGHTS AND DIRECTIVE PRINCIPLES OF STATE POLICY

#### FUNDAMENTAL RIGHTS

Here we shall confine our discussion to their bearing on the public administration of the country. The rights which the constitution confers on the citizens are fundamental, since any law in the country is void to the extent that it is inconsistent with the provisions of the fundamental rights. These rights are, in fact, rights against the State, *i.e.*, the Union and State Executives and Legislatures. Further, the State is prohibited from enacting any law which takes away or abridges the fundamental rights in their amended form. A brief discussion of the rights is as follows :

1. *Right to Equality.* It has the following important aspects :  
(i) The State cannot deny to any person equality before law or the equal protection of the laws within the territory of India. (ii) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth, or any of them and no citizen on any such ground be subject to any disability or restriction with regard to : (a) access to shops, public restaurants and places of public entertainment, or (b) the use of wells, tanks, roads and places of public resort maintained wholly or partly out of state funds or dedicated to the general use of the public. But the Governments can make special provisions for women and children. (iii) No citizen shall on grounds only of religion, race, caste, sex, descent, place of birth, residence, or any of them be ineligible for or discriminated against in respect of any employment or office under the State. However, nothing herein contained debars the State to make it a condition precedent that for any employment or office in a State specified in the First Schedule requirement as to residence within the State prior to such appointment shall be necessary. In addition, a State will be within its right to reserve certain appointments for any backward class of citizens, which the State thinks is not adequately represented in the services. (iv) 'Untouchability' is abolished and its practice in any form is forbidden.

2. *Right to Freedom.* It includes the following rights for the citizens : (i) to freedom of speech and expression ; (ii) to assemble

peaceably and without arms ; (iii) to form associations or unions ; (iv) to move freely throughout the territory of India ; (v) to reside and settle in any part of the territory of India ; (vi) to acquire, hold and dispose of property ; and (vii) to practise any profession, or to carry on any occupation, trade or business.

The right to freedom also ensures (a) protection in respect of conviction for offences : No person shall be convicted of any offence except for violation of a law in force at the time of the commission of the act ; and no person shall be prosecuted and punished, for the same offence more than once. (b) No person shall be deprived of his life or personal liberty except according to procedure established by law. (c) No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest nor shall he be denied the right to consult, and to be defended by, a legal practitioner of his choice. Every person who is arrested and detained in custody shall be produced before the nearest magistrate within 24 hours of his arrest.

The phrase 'procedure established by law' means the procedure established by law enacted by the legislature. The word 'due' has been interpreted to mean 'just in the opinion of the court'. This word having been deliberately omitted, it is not open to the Indian courts to consider whether a certain law is reasonable or not. The last word rests with the legislature rather than on the judiciary. The Supreme Court and also the High Courts have the power to issue directions or orders and writs in the nature of habeas corpus, mandamus, prohibition, quo-warranto, and certiorari. A writ means a legal instrument to enforce obedience to the orders of a court.

3. *Right against Exploitation.* Traffic in human beings, 'begar' and other similar forms of forced labour are prohibited and any contravention thereof is punishable as an offence in accordance with law.

4. *Right to Freedom of Religion.* (a) Subject to public order, morality and health and to the other provisions of this part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion. However, this does not affect the operation of any existing law or prevent the state from making law ; (b) Subject to public order, morality, and health, every religious denomination or section thereof shall have the right to (i) establish and maintain institutions for religious and charitable purposes, (ii) to manage its own affairs in matters of religion, (iii) to own and acquire movable and immovable property, and (iv) to administer such property in accordance with law.

5. *Cultural and Educational Rights.* (a) Any section of the citizens residing in India having a distinct language, script or culture of its own shall have the right to conserve the same ; but a person shall not be denied admission to any educational institution maintained

or aided by the State, on grounds only of religion, race, caste, language or any of them. (b) Religious or linguistic minorities shall have the right to establish and administer educational institutions of their choice, and the State in granting aid to such institutions shall not discriminate against any institution on the ground that it is under the management of a minority.

6. *Right to Property.* There is provision for compulsory acquisition of property with compensation. A person is not to be deprived of his property except in accordance with law. No property movable or immovable can be acquired for public purposes under any law unless the law provides compensation for the property. Further, a State Legislature cannot pass any such law effectively unless it has been considered and assented to by the President. But this right has been amended several times.

7. *Right to Constitutional Remedies.* Right to move the Supreme Court, to enforce the above rights is guaranteed. The Supreme Court can issue directions or writs. Parliament can also by law empower any other court, within the local limits of its jurisdiction, to exercise all or any of such powers exercised by the Supreme Court. Moreover, rights thus guaranteed are not to be suspended except as otherwise provided for by the Constitution. However, the Parliament has been empowered to modify the rights conferred by this part in their application to members of the Armed Forces. In addition, when martial law is in force, in any area, Parliament can pass law to indemnify a person in the service of the Union or of a State or any other person, in respect of any act done to maintain or restore order in that area.

*Suspension of Fundamental Rights.* When a proclamation of Emergency issued by the President, is in operation, nothing in article 19 (providing for freedom of speech, press and association, etc.) shall restrict the power of the State to make law or take executive action. But any such law shall to the extent of the incompetency cease to have effect as soon as the proclamation ceases to have effect. It is also provided that the President may during such Emergency by order declare that the right to move any court for enforcement of rights and all proceedings pending in any court, for their enforcement shall remain suspended for the entire or shorter period as may be specified in the Presidential Order. Such an Order may be for the whole or any part of India, and shall as soon as may be after being made, laid before each House of Parliament.

On the whole, the fundamental rights have resulted in the establishment of the 'rule of law'. In other words, all authorities and citizens are subject to the provisions of law. Arbitrary government and autocratic rule cannot be practised in any form. All administrators—the highest and the lowest—must always keep this thing in their minds. Thus the enforcement of fundamental rights

has cast a great responsibility on all administrative authorities. The excesses committed during the emergency (from June 1975 to March 1977) would serve as useful reminders to the administrators in future.

#### DIRECTIVE PRINCIPLES OF STATE POLICY

These may briefly be summarised as follows :

(1) The State shall endeavour to promote the welfare of the people by securing and protecting as effectively as it can, a social order in which social, economic and political justice shall inform all the institutions of national life.

(2) The State shall particularly direct : (a) that citizens both men and women equally have the right to an adequate means of livelihood ; (b) that the ownership and control of the material resources of the community shall be so distributed as to lead to the common good ; (c) that operation of the economic system does not result in the concentration of wealth and means of production to the common detriment ; (d) that there is equal pay for equal work for both men and women ; (e) that the health and strength of workers and the tender age of children are not abused ; and (f) that childhood and youth are protected against exploitation and against moral and material abandonment.

(3) The State shall organise village Panchayats and shall endow them with necessary powers and authority to enable them to function as units of self government.

(4) According to its capacity the State shall make effective provision for securing the right to work, to education and to public assistance in case of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

(5) The State shall make provision for just and humane conditions of work and maternity relief.

(6) The State shall endeavour to secure by suitable legislation or economic organisation to all workers, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure, etc.

(7) The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India. The introduction of the Hindu Code Bill which had to be withdrawn was a step in this direction. However, the Special Marriage Act and other measures of social reform are aimed at achieving the same goal.

(8) The State shall endeavour to provide, within a period of 10 years, for free and compulsory education for all children until they complete the age of 14 years.

(9) The State shall promote with special care the educational and economic interests of scheduled castes, scheduled tribes and

other weaker sections.

(10) It shall be the duty of the State to raise the level of nutrition and the standard of living and to improve public health.

(11) The State shall endeavour to organise agriculture and animal husbandry on modern and scientific lines, and shall take steps for improving the breeds and prohibiting the slaughter of cows and other useful cattle.

(12) The State shall take steps to separate the judiciary from the executive in the public services of the State.

In addition to the above directive principles incorporated in the original constitution, the following were added in 1976 by amendment 42.

(13) The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide for legal aid.

(14) The State shall take steps by suitable legislation or in any other way, to secure the participation of workers in the management of undertakings in any industry.

(15) The State shall endeavour to protect and improve the environment and safeguard forests and wild life of the country.

The directive principles of policy are like moral precepts, which should be kept in mind by the policy-makers and framers of legislation. They cannot be enforced by the courts. Thus, they are different from the fundamental rights, but article 37 says that the principles laid down therein are nevertheless fundamental in the governance of the country. While article 31 (c) as previously worded saved only laws giving effect to the directive principles specified in clause (b) and clause (c) of article 39 from attack on the ground of infringement of fundamental rights, the 42nd amendment has widened the scope of the article so as to cover all the directive principles enumerated in Part IV.

The great importance of directive principles in the field of public administration lies in the fact that they clearly indicate the very much extended scope of governmental activities and consequently of public administration itself. A careful study of the directive principles will lead the reader to the conclusion that a welfare state has to be established under the Constitution. Although it has not been said in plain words, yet the fact is that the implementation of the directive principles will lead to the establishment of a socialist society in the country. It was for this reason that Congress (the ruling party upto March 1977) adopted the goal of 'democratic socialism' and endeavoured to bring it about through the method of economic planning.

## II. THE PRESIDENT

The President is the head of the Republic. He holds the most

exalted office in the hierarchy of the country which naturally carries with it great prestige. The President personifies the unity and the solidarity of the nation and the abiding continuity of its existence. Technically speaking, he is invested with a larger number of powers in all spheres of governmental activity and particularly so during times of national emergency. No express provision of the Constitution bound him to follow the advice of the Ministry, but it had been left to the development of a convention. However, in 1976 such a provision was incorporated by the 42nd amendment. The President is elected by an electoral college consisting of (a) elected members of both Houses of Parliament and (b) elected members of State Legislative Assemblies. The President of India is required to perform a large number of important functions, so he has been endowed with a vast array of powers which may be grouped under the following heads.

#### POWERS TO GRANT PARDON, REMIT SENTENCES ETC.

The President has the powers to grant pardons, reprieves, respites or remissions of punishment, or to suspend, remit or commute the sentence of any person convicted (i) in all cases where the punishment or sentence is by a court martial, (ii) where it is for an offence against any law relating to a matter within the power of the Union Executive, and (iii) in all cases where a sentence of death has been imposed.

#### ADMINISTRATIVE POWERS

The Supreme Executive power of the Union is vested in the President, who can exercise it directly or through his subordinates. All officers of the Union are his subordinates. Thus the administrative powers of the President include several things.

(1) All executive actions are expressed to be taken in the name of the President. He makes rules of business for the Government of the Union and allocates work to the Ministers. He has the right to information, *i.e.*, he must be kept informed by the Prime Minister of all decisions of the Council of Ministers and supplied with such other information about administration of affairs as he might call for. He can also require the Prime Minister to submit a decision of any Minister for the consideration of the Council of Ministers.

(2) The President has important powers of appointment and removal of high dignitaries and commissions, *e.g.* the Prime Minister of India, other Ministers, the Attorney-General, Comptroller and Auditor General, Judges of the Supreme and High Courts, Governors, Special Officers for Scheduled Castes and Tribes, the Union Public Service Commission, Finance Commission, Election Commission, Backward Classes Commission, Language Commission, an Inter-State Council etc. Most of the officials appointed by him



hold their offices during his pleasure *i.e.*, they can be removed by him; but in regard to the removal of a judge of the Supreme Court and High Courts etc. there is a special procedure. In addition, he has the power of nominating twelve members to the Rajya Sabha and at most two representatives of the Anglo-Indian community as members of the Lok Sabha.

(3) The Supreme Command of the Defence Forces is vested in the President, but the exercise of this power is to be regulated by law and the Parliament has exclusive powers for legislation relating to the Defence Forces, war and peace. The powers of the President of USA are greater in this respect, because as Supreme Commander he can assume emergency powers.

(4) The President as head of the Government represents the country in international affairs. He appoints ambassadors and other diplomatic representatives to foreign countries and also receives similar representatives appointed by foreign States to India. 'The initiative in regard to the negotiation of treaties and agreements with other countries lies with the Ministers and technically with the President though such agreements must be submitted to Parliament for its ratification.'

(5) He has power of making rules or regulations governing matters like joint sitting of two houses of Parliament, appointment of officers and servants of the Supreme Court, administrative powers of Comptroller and Auditor General, fixing the number of members of Union Public Service Commission. The President's approval is necessary for certain administrative acts, of decisions of other authorities, e. g., to rules made by the Supreme Court governing its procedure, the Union Public Service Commission serving the needs of any State, etc. Lastly, the President has important powers of direction, control and co-ordination in relation to State Governments. He also appoints Lieut. Governors and Chief Commissioners for Union Territories, which are centrally administered.

(6) We may also consider here the administrative powers of the President in relation to the Union Legislature. Briefly stated, he summons and prorogues the sessions of the Houses of Parliament and he is empowered to dissolve the Lok Sabha at any time. In the beginning of each session of Parliament he addresses both the Chambers at a joint sitting; and has power to address either House or both of them assembled together at any time, besides sending messages. He can call joint sittings of the two houses to resolve their differences over a bill.

#### LEGISLATIVE POWERS

The Constitution expressly lays down that the Union Legislature consists of the President and two Houses of Parliament, though he is not a member of any House. Like the King-in-Parliament in the

United Kingdom, the President and Parliament only in combination can enact laws. As regards actual legislation, following kinds of bills cannot be introduced in Parliament without his recommendation or sanction : (i) a Bill relating to the redistribution or alteration of State boundaries, (ii) Money Bills, Bills involving expenditure, Bills affecting taxation in which the States are interested. He causes to be laid before Parliament the Annual Financial Statement, supplementary statement, annual reports of the Union Public Service Commission, the Comptroller and Auditor-General, the Special Officer for Scheduled Castes and Tribes, Backward Classes commission, and recommendations of the Finance Commission, etc.

Secondly, a Bill passed by the Parliament must receive his assent in order to become a law. He can withhold his assent (except in the case of money Bills) to a Bill and may also return a Bill to the Parliament for reconsideration, with his own recommendation; but if such a Bill is passed by the Parliament a second time with or without amendments his assent must be given. Thirdly, the President has certain important powers and functions in regard to legislation in the States. His sanction or authorization is necessary for introduction of certain types of Bills in State Legislature e. g. a Bill to impose restrictions on freedom of trade, commerce, or intercourse within the State. Again, State laws dealing with certain matters requiring his assent have to be reserved by the Governors, e. g. all State laws dealing with subjects included in the Concurrent List if they are in conflict with any Union law, laws providing for compulsory acquisition of property by the State or imposing certain specified taxes, etc.

#### FINANCIAL POWERS

The President possesses certain important powers in regard to finance as well. No money Bill can be introduced in the Parliament except on his recommendation. He has control over the Contingency Fund, because he can make advances out of it to meet unforeseen expenditure pending its authorization by Parliament. On the recommendations of the Finance Commission, he determines the share of the States in the proceeds of income tax.

#### EMERGENCY POWERS

The Constitution of India provides for three kinds of emergencies, proclamations for which have to be issued by the President as and when necessary. These are (1) an emergency arising from a threat to the security of the country caused by external aggression or internal disturbance; (2) an emergency resulting from the failure of the constitutional machinery in the States; and (3) financial emergency.

A proclamation of emergency of the first type may be declared by the President whenever he is satisfied that a grave emergency

threatening the security of India or any part thereof by war, external aggression or internal disturbance exists. Such a proclamation may be made before the actual occurrence takes place and (a) may be revoked by a subsequent proclamation, (b) has to be laid before each House of Parliament, and (c) shall cease to operate, unless approved by both Houses of Parliament at the expiry of two months. However, when such a proclamation is issued at a time when the Lok Sabha stands dissolved or is dissolved during the period of two months, and Rajya Sabha approves of the proclamation, then such a proclamation shall cease to have effect unless approved of within thirty days of the sitting of the reconstituted Lok Sabha.

Effects of the above proclamation are : (1) The Union Parliament can legislate on any matter included even in the State List. (2) The Union Government can give any directions to any States as to how the executive power of the latter should be exercised. (3) The President may by order direct that all or any of the provisions contained in articles 268 to 279 regarding the distribution of revenues between the Union and the States, shall for a period not extending beyond the financial year have effect subject to exceptions or modifications that he may think fit. But such an order when made, as soon as possible, has to be laid before each House of Parliament. (4) The President may by order also declare that the right to move any court for enforcement of fundamental rights shall remain suspended for the entire or shorter period as may be specified. Such an order may embrace the whole or any part of India and as soon as may be, after being made, is laid before each House of Parliament.

The effects of a proclamation resulting from the failure of constitutional machinery in any State are the following : (1) The President may assume any of the executive functions of the authorities of the State concerned; (2) the powers of the State Legislature may be transferred to the Union Parliament; but the Parliament is competent to confer such legislative powers on the President or authorise him to delegate to any other authority he thinks fit; and (3) the President may also take any other incidental or consequential action with the exception of taking away the powers of the State High Court.

When the financial stability or credit of India or any part thereof is threatened, the President may by proclamation declare a financial emergency. Its consequences will be the following : (1) the Union Government shall give such financial directions to the States as it may think fit. (2) Any such direction may include (a) provision requiring the reduction of salaries and allowances of all officers, including judges of the Supreme Court as well as High Courts of the States as well as the Union; (b) provision requiring all money or other financial Bills to be reserved for consideration of the President, after

they are passed by the State Legislature.

#### THE ACTUAL POSITION OF THE PRESIDENT

As head of parliamentary government, the President has so far acted in every matter on the advice of the Council of Ministers, although the original constitution did not expressly forbid the President to act against ministerial advice. If a President were to act in disregard of the Cabinet's advice, he would have precipitated constitutional crisis of the first magnitude between himself and the Council of Ministers, backed by a majority of the Lok Sabha, as a result of which he would have been forced to resign. K. Santhanam holding this view stressed the fact that article 61 (1) which says that 'There shall be a Council of Ministers with the Prime Minister at the head, to aid and advise the President in the exercise of his functions' was as clear an injunction as was necessary. The words 'in the exercise of his functions' are all comprehensive.

But there are writers who held another view which might be called technical or juristic. They maintained that the relevant article did not say that the President was bound to accept the advice of the cabinet. The authors of the Indian Constitution did not expressly state in the document that the President in the exercise of his functions was always to act on the advice of his Ministers but had preferred to leave this to the growth of conventions as in the United Kingdom. V. N. Srivastava wrote : 'It is doubtful that in a country like India where masses are still illiterate and political consciousness is unknown, conventions will have the same force as in United Kingdom. In the French Constitution they did not prefer to leave a similar matter to convention but made a specific provision whereby it was required that every act of the President shall be countersigned by a Minister. The authors of the Indian Constitution should have taken similar care as to have made a specific provision in the Constitution. An omission of this type is fraught with the danger that a top-ranking statesman at the helm of affairs possessed of confidence of the masses, may become intoxicated with power as conferred upon him by the provisions of the Constitution and disrupt the cabinet government and rule the country autocratically for a period of at least four months-at a time.'<sup>1</sup>

In view of the above, the 42nd amendment passed in November 1976 modified article 74 as : 'There shall be a Council of Ministers with the Prime Minister at its head to aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice.' It was in consonance with this article that the Janta ministry in June 1977 insisted that the acting President should sign the government's proclamations imposing President's rule in nine states and after some hesitation he yielded.

<sup>1</sup> *I. J. P. S.*, Vol. XI, No. 4, 20.

## THE VICE-PRESIDENT

The Indian constitution has also provided for a Vice-President. He is elected by the two Houses of the Parliament assembled at a joint meeting in accordance with the system of proportional representation by means of the single transferable vote and secret ballot. No person can be elected as Vice-President unless he (a) is a citizen of India, (b) is 35 years old, and (c) is qualified for election as a member of the Rajya Sabha. Other qualifications or disqualifications as stated in the case of the President also apply to the Vice-President.

The Vice-President holds office for a period of 5 years provided (a) he may resign, or (b) may be removed by a resolution of the Rajya Sabha passed by a majority of all the members of the Chamber and agreed to by the other Chamber. Once elected to fill the office he holds it subject to other constitutional provisions, for a period of 5 years.

Our constitution like the Constitution of USA, requires him to act as ex-officio Chairman of the Rajya Sabha. As Chairman of the Upper House he has the usual powers of a presiding officer including the right to give a casting vote in case of a tie. He has to perform more important duties when he acts as President. When there occurs a vacancy in the President's office for any reason whatsoever, the Vice-President acts as President till it is filled up. He also acts for the President during the latter's inability to discharge his functions owing to absence, illness, etc.

## THE COUNCIL OF MINISTERS

Article 74 of the Constitution provides for a Council of Ministers to aid and advise the President in the exercise of his functions. As stated in the previous section, the article has been modified by the 42nd amendment, as a consequence of which the President is now bound by the advice of the Council of Ministers. Under the parliamentary system of government established by the Constitution, the Council of Ministers is the real executive. It is modelled on the Cabinet in Britain and has all the characteristics of a parliamentary executive. The Council is headed by a Prime Minister and has other Ministers who are appointed on his advice by the President. Council of Ministers is collectively responsible to the lower house of Parliament. This means that the President is not free to choose any one as the Prime Minister. He has no alternative except to select for that office the person who commands a majority in the House. As the Ministers have collective responsibility all of them usually come in and also go out of office at the same time. There is no fixity about the Council's tenure of office. Though the language of the Constitution conveys the impression that

the Council is to aid and advise the President, it is not merely an advisory body as it is responsible to the Parliament.

Since the formation of the first ministry under the constitution, the Council of Ministers has usually consisted of : (1) Members of the Cabinet; (2) Ministers of Cabinet rank but not members of the Cabinet or Ministers of State; (3) Deputy Ministers; and (4) Parliamentary Secretaries. The practice of appointing Parliamentary Secretaries has not been followed for about 20 years. The Administrative Reforms Commission has also not favoured its continuation. The Constitution makes no mention of the term 'cabinet', nor of any difference in the kinds and grades of ministers.

The first category of Ministers constitutes the Cabinet, which acts as a body for deliberative purposes in order to determine the policy and programme of the Government. The Ministers of the Cabinet rank, but not members of the Cabinet, enjoy the same rank and emoluments etc. as Cabinet Ministers; but they do not participate in the Cabinet meetings. However, any such Minister is invited to attend those Cabinet meetings in which matters concerning his department are considered. They may be compared to the Ministers of State in this respect. The Deputy Ministers, as their title signifies, are in charge of single departments placed under a senior minister whom they are to assist; their posts give them the necessary training for full-fledged ministership at a later stage. The Parliamentary Secretaries assist the Ministers to whom they are attached in the Parliament; *i. e.* they generally reply to the questions raised about their department and also speak for their department in the parliamentary debates. They are the junior-most members of the Ministry intended to serve a period of apprenticeship for higher rank.

From what has been said above one thing is quite clear. We must distinguish between the Ministry and the Cabinet, as is done in Great Britain. The former includes all Ministers numbering about four dozens, while the latter includes about 15 Ministers. They all come in and go out of office together, though minor changes are made by the Prime Minister from time to time. Their office is political in nature as distinguished from that of the permanent secretaries.

In the whole ministry the Prime Minister's position is prime, *i. e.* central or the key position. He, in fact, appoints his colleagues of the Cabinet and other members of the Ministry. He decides the number and categories of Ministers. He has power to reconstitute or reshuffle his Cabinet at any time he likes; he can advise the President to appoint new Ministers or demand resignation from any one of the Ministers. When he submits his own resignation the whole ministry goes out of office. He allocates portfolios to the various Ministers. He presides over the meetings of the Cabinet and acts as the chief spokesman of the ministry as a whole on all occasions inside and outside the Parliament. He is the link between the Cabinet and the

President and the channel of all communications. As the leader of the Parliamentary party he guides its deliberations, and enforces discipline among its members. He is also the Leader of the House, in which capacity he controls to a large extent the business of the House. The Prime Minister represents the Cabinet as a whole in a sense which is not true of any of his colleagues. He is looked to for the most authoritative statements and explanations of Government's policy.

Considering what has been said above we may describe the importance of the Prime Minister's office by a common phrase 'primus inter pares.' First amongst equals the Prime Minister undoubtedly is. In John Morley's expressive figure, he is 'the key-stone of the Cabinet arch,' for within the Ministry and the Cabinet alike, the Prime Minister is the keyman, even if not always the outstanding personality. In ordinary circumstances he leaves the Ministers—the political heads of departments—to do their work in their own way. But it is their duty to consult him on important matters. He supervises the work of all the Ministries from time to time. In short, he is hard-worked and always pressed for time. He has to get through innumerable papers, he receives a steady stream of callers; and he confers with individual Ministers. No other dignitary in the country carries with him as many responsibilities as the Prime Minister of India.

Article 77 governs the conduct of business of the Government of India. It lays down that : (1) all executive action of the Government of India shall be expressed to be taken in the name of the President; (2) orders and other instruments made and executed in the name of the President shall be authenticated in such manner as may be specified in rules made by the President; and (3) the President shall make rules for the more convenient transaction of the business of the government, and for the allocation among ministers of the said business.

#### WORKING OF THE CABINET

At the outset distinction may be made between their individual and collective functions. In a collective sense, the members of the Cabinet, as already pointed out, perform the deliberative functions of the Government; in other words, they form the great Executive Committee of Parliament. They prepare its business, guide its deliberations, and keep it at all times under control. Briefly stated, their functions include : (1) determination of policy and the legislative programme of the government, (2) preparation and approval of the financial proposals (the budget), (3) determination of the foreign policy, negotiation of treaties etc., and (4) the supreme control of the national executive in accordance with the policy prescribed by Parliament, the continuous co-ordination and delimitation of the

authorities of the several departments of state. The Cabinet is a general controlling body and usually meets once a week. Each member of the Cabinet is responsible for the conduct of some branch of the Union administration; he may have under his charge more than one departments and may be assisted by other Ministers.

Many colourful phrases, descriptive of the British Cabinet's importance, may be employed to describe the importance of the Union Cabinet, e. g. the hyphen that joins and the buckle that binds the executive and the Legislative branches together (Bagehot); the keystone of the political arch (Lowell); the pivot round which the whole political machinery revolves (Marriot); the steering wheel of the ship of the State (Ramsay Muir), etc.

#### \*COLLECTIVE RESPONSIBILITY

The Ministry and the Cabinet function on the well-established principle of collective responsibility. For all that passes in the Cabinet each member of it who does not resign is absolutely responsible for its decisions; he is expected not merely not to oppose a Cabinet decision but also to support it, even though, in actuality, he might have opposed it in the Cabinet meeting. This obligation on Ministers not in the Cabinet is not apparently so strong; but even they must vote in favour of the Government's decisions.

#### THE PRINCIPLE OF SECRECY

All Ministers before entering upon their office have to take an oath of secrecy in addition to the oath of office. What transpires in the Cabinet meeting is absolutely confidential, no Minister can give out any secrets of the Government. However, its decisions are made known to all at the proper time.

#### CABINET COMMITTEES

As in the United Kingdom and other countries, with a similar system of the executive, the Cabinet in India makes use of committees. The Transaction of Business Rules provide for the constitution of standing committees. They help greatly in studying various problems and in reaching speedy decisions on important political and economic questions. They are also useful in bringing about coordination in well-defined fields of administration. In 1973, there were ten Standing Committees of the Cabinet for dealing with the following subjects : (i) Economic Coordination, (ii) Political Affairs, (iii) Family Planning, (iv) Food Agriculture and Rural Development, (v) Parliamentary Affairs, (vi) Appointments, (vii) Accommodation, (viii) Tourism and Transport, (ix) Science and Technology, and (x) Economic Policy.

The Cabinet Committee on Political Affairs was the most important, as it dealt with all important problems concerning foreign affairs, defence and internal political issues. In addition to the



Standing Committees, ad hoc committees are also appointed to look into specific issues or problems faced by the cabinet. The Janta Party Government set up the following committees after assumption of office : The Cabinet Committee on Economic Affairs, the Cabinet Committee on Accommodation, and an informal group of three ministers to consider certain immediate issues on the economic front. Later in May, it set up two other committees : First, a Political Affairs Committee, headed by the Prime Minister and consisting of other four ministers of Home, Defence, External Affairs and Finance. Second, a Committee on Parliamentary Affairs, headed by the Home Minister and consisting of the Ministers of Information and Broadcasting, Labour, Parliamentary Affairs and Law.

#### CABINET SECRETARIAT

The first Secretariat was set up after the attainment of independence. It served as a strong reference point for consultation and support for the other Secretaries to the Government. Since the very beginning, the Cabinet Secretary has remained the Chief amongst the Permanent Secretaries to the Government. The principal function of the Secretariat is servicing the Council of Ministers. Although the Secretariat is concerned with the Council of Ministers as a whole, the Cabinet Secretary himself deals primarily with the meetings of the Cabinet and of the various sub-committees. He also performs some functions in connection with the processing of the appointments and resignations of ministers.

The Cabinet Secretary is responsible directly to the Prime Minister, who himself holds charge of the Cabinet Secretariat. The Cabinet Secretary advises the Prime Minister upon the classification of subjects, and their grouping into suitable portfolios. He also maintains contact with different ministers in a general way; but he keeps somewhat more closely in touch with the Secretaries in charge of the different ministries and departments. In short, he provides the eyes and ears for the Prime Minister to keep in touch with the process of official business in the central government. He is formally responsible for all secretariat functions connected with the meetings of the Cabinet and its Standing Committees. He prepares the agenda for approval of the Prime Minister or (where the Prime Minister is not head of a committee) the chairman of the committee.

An idea of the scope of activities performed by the Cabinet Secretariat may be had from the following list of subjects with which the Cabinet has to deal :

- (1) Cases involving legislation including the issue of ordinances.
- (2) Cases concerning negotiations with foreign countries on treaties and governments.
- (3) Addresses and messages of the President to Parliament.
- (4) Proposals to summon or prorogue Parliament.

- (5) Appointment of public enquiry committees and consideration of reports of such committees.
- (6) Cases of disagreement between ministries or issues which an individual minister may like to discuss in the cabinet meeting.
- (7) Reconsideration of any previous decision taken by the cabinet.
- (8) Appointment of delegations or withdrawal of prosecution instituted by the government.

The internal organisation of the Cabinet Secretariat has been changing from time to time. The Cabinet Secretariat consists of the Department of Cabinet Affairs, the Department of Personnel and the Department of Statistics. The Military wing of the Department of Cabinet Affairs provides secretariat support to the Defence Minister's Committee, the Chief of Staff Committee and other committees dealing with defence. The Department of Personnel<sup>1</sup> deals with training and other problems, connected with civil services. The Department functions directly under the Prime Minister; although its day-to-day administration has been entrusted to a Minister of State in the Ministry of Home Affairs. In February 1973 the Department of Administrative Affairs, hitherto located in the Ministry of Home Affairs, was transferred to the Department of Personnel and the latter's name was changed to the Department of Personnel and Administrative Reforms. The Department has the following divisions, each under a Joint Secretary : (i) Policy and Planning Division, (ii) Training Division, (iii) All India Services Division, (iv) Establishment Division, (v) Vigilance Division, and (vi) Establishment Officer's Division. The Department is headed by one Secretary, who is assisted by an Additional Secretary and the six Joint Secretaries. The main functions of the Department are as follows :

- (i) Survey of the needs of Public Services,
- (ii) Manpower planning,

<sup>1</sup> The Department of Personnel was transferred to the Cabinet Secretariat in August 1970. It has a very large number of functions, which have been grouped under the following heads. The largest group A has a list of 18 functions, which need not be given here. (a) Reservation of posts, general questions relating to recruitment, promotion, general policy regarding employment issue of certificates of eligibility, etc. (b) Formulation and coordination of training policies for the All-India and central services. (c) Prevention of corruption. (d) General questions (other than those which have a financial bearing), including conduct rules relating to All-India and Union Public Services; conditions of service of Central Government employees. (e) All aspects of senior management. (f) Service associations of the employees of the Government of India. (g) Union Public Service Commission. (h) Creation of new All-India services. (i) General policy questions regarding career planning for the All-India and Central Government services. (j) Coordination of the work of personnel management agencies. (k) Research in Personnel Administration. See I. I. P. A., *Newsletter*, August 1970.

- (iii) Cadre management,
- (iv) Job evaluation and position classification system,
- (v) Recruitment,
- (vi) Training and development programmes,
- (vii) Career systems planning,
- (viii) Compensation and remuneration administration,
- (ix) Motivation, participative-management and welfare programmes,
- (x) Conduct, discipline and public service ethics,
- (xi) Development of personnel organisation,
- (xii) Personnel research and other departmental aspects,
- (xiii) Administrative reform,
- (xiv) O and M.

The ARC Study Team suggested reorganisation of the Cabinet Secretariat so as to have cells specialising in broad areas of governmental functioning. The main functions of such cells would be : (a) to keep the Prime Minister posted with happenings in ministries; (b) to receive memoranda of major decisions from ministers and put them up before the Prime Minister; (c) to act as the aide of the Prime Minister, the Cabinet and the Cabinet Committees in giving shape to new policies; (d) to serve Cabinet Committees, relating to the group of ministries assigned to them; and (e) to keep in touch with follow-up of the Prime Minister's suggestions or decisions of the Cabinet and its committees.

The Cabinet Secretariat, the main citadel of the Prime Minister's power, has been stripped of its control over the civil services and economic intelligence bodies. According to official sources, this has been done to diffuse the concentration of power in the office of the Prime Minister brought about during the previous regime so that no future Prime Minister can singly and unilaterally abuse the administrative apparatus. The sources said that at the instance of the Prime Minister, Mr. Morarji Desai, the Department of Personnel and Administrative Reforms of the Cabinet Secretariat, which controls the civil services, is being attached to the Home Ministry, while the Department of Revenue Intelligence, taken away from the Finance Ministry in 1970 has been returned to it.

Along with the Cabinet Secretariat the Prime Minister's Secretariat is also being divested of its various policy-making cells to limit its functions to actual assistance to the Prime Minister in administrative and other matters of national importance. The cells will now be attached to their respective parent ministries. During the last seven years under the stewardship of Mrs. Indira Gandhi the Prime Minister's Secretariat had virtually become a national policy formulation body and the Cabinet Secretariat its enforcement arm, according to the sources. The scope of the Research and Analysis Wing (RAW) is also being curtailed to national security

matters. Before the elections, several opposition leaders had alleged that RAW was being used in March 1977 for political purposes. The Directorate of Enforcement (Revenue) has also been returned to the Finance Ministry.

Both the Department of Revenue Intelligence (DRI) and the Directorate of Enforcement were with the Finance Ministry till 1970. After the Congress split in 1969, Mrs. Gandhi kept the Finance portfolio with herself for about a year and sliced the DRI and the Enforcement Directorate while handing it over to Mr. Y. B. Chavan. The sources said that these structural changes in the composition of the two Secretariats would erode the concentration of power in keeping with the election pledges of the Janata Party.<sup>1</sup>

#### THE ATTORNEY-GENERAL OF INDIA

Every Government requires the services of Law Officers possessed of the highest qualifications for the purpose of drafting Bills and to give legal counsel in those matters in which it may be required. The Attorney-General's office is generally considered to be a political office, similar to the office of a Minister, though he need not be a very active politician. Primarily he must be a reputed expert in law, whose competence is acknowledged on all hands, because his duties and responsibilities appertain to the interests of the nation as a whole.

The person to be appointed to this office should be qualified to be a judge of the Supreme Court. He is appointed by the President; holds office during his pleasure and receives such remuneration (at present Rs. 4000 p. m.) as the President may determine. The Attorney-General of India gives advice to the Government of India upon legal matters and performs other duties of a legal character that may be referred or assigned to him by the President. He also discharges the functions conferred on him by or under this Constitution or any other law, etc. In the performance of his duties he has the right of audience in all courts in India. He is also authorised to speak and otherwise take part in the proceedings of both the Houses of Parliament and their Committees, but being a non-member he has no right to vote.

#### IV. UNION PARLIAMENT

The Constitution provides for a bicameral legislature, consisting of the Council of States (Rajya Sabha) and the House of the People (Lok Sabha). The Rajya Sabha is composed of (a) 12 members nominated by the President and by not more than 238 representatives of the States and Union Territories. The representatives of the States are elected by the elected members of their legislative assemblies

<sup>1</sup> *Times of India*, 12 April 1977.

by the method of proportional representation and single transferable vote. The representatives of Union Territories are chosen in such manner as is prescribed by parliamentary legislation.

The Lok Sabha consists of- (a) not more than 525 members chosen by direct election from territorial constituencies in the States, and (b) not more than 20 members representing the Union Territories, chosen in such manner as prescribed by parliamentary legislation. The Lok Sabha constituted in March 1977 has 542 members. A number of seats are allotted to each State in such manner that the ratio between the number and the population of the State is, so far as practicable, the same for all States. Further, each State is divided into territorial constituencies in such manner that the ratio between the population of each constituency and the number of seats allotted to it is, so far as practicable, remains the same throughout the State.

The Rajya Sabha is not subject to dissolution, but as nearly as possible one-third of its members retire as soon as may be on the expiration of every second year. The Lok Sabha, unless sooner dissolved, continues for 5 years from the date appointed for its first meeting. Its term was extended to 6 years by the 42nd amendment, but the Janta Party Government proposes to reduce the term to 5 years.

#### THE POWERS OF PARLIAMENT

The Parliament is competent to make laws on any subjects enumerated in the Union or Concurrent Lists, as well as on residuary subjects. It can legislate for the States during the proclamation of an emergency even on subjects included in the State List and in two other ways as well : First, when the legislatures of two or more States pass resolutions requesting the Parliament to enact legislation on a particular subject; and secondly, when the Rajya Sabha passes a resolution by 2/3rds majority to the effect that in the national interest Parliament should enact a law. It makes use of Select Committees for reporting on various Bills.

The second important function of Parliament is to exercise full control over the Union finances. All revenue raising proposals as well as grants for expenditure are passed by the Parliament. Thus it has the power to control the purse. No amount can be spent out of the Consolidated Fund of the Union unless it is so authorised by the Parliament. It appoints an Estimates Committee and a Public Accounts Committee, at the commencement of its first session every year.

The ministry is responsible to the Parliament; in actual practice, to the lower House, which can pass a vote of no-confidence or a censure motion against the Ministry. If the House rejects or reduces a demand for expenditure, defeats any important Bill or resolution moved and supported by the Ministry, or passes an adjournment motion, when opposed by the Ministry each of these decisions is

tantamount to a vote of no-confidence and consequently the Ministry must resign. But the leader of the defeated Ministry may advise the President to dissolve the House. On every sitting of either House of Parliament, usually first one hour is devoted to the giving of replies to questions put by members of the House.

Other functions of the Parliament include the right to amend the Constitution and impeach the President or Judges of the Supreme and High Courts. The Vice-President can also be removed from his office. All the elected members of the Parliament participate in the election of the President and both Houses assembled at a joint meeting also elect the Vice-President.

Barring 'Money' and 'Financial' Bills any other Bills may originate in either House of Parliament. A Bill in order to be passed by the Parliament must be agreed to by both Houses. If a Bill passed by one House and transmitted to the other is (a) rejected by the other house, (b) is finally disagreed to as regards amendments to be made by the Houses or (c) more than six months elapse from the date of receipt of the Bill by the other House without the Bill being passed, the President may call a joint meeting of the two Houses in order to resolve the conflict. This procedure is not applicable to a 'Money Bill' and in reckoning the period of six months, no account is taken of the period for which the House remains adjourned or prorogued for more than four consecutive days. At a joint sitting the Bill has to be passed by a majority of the members present and voting. Since the number of members of Lok Sabha is more than double the number of members in the other House, it can safely be asserted that the decision of the popular House will prevail, as it should be.

A Money Bill can only be introduced in the Lower House. After being passed by it, it is transmitted to the Upper House, which within 14 days of receipt has to send it back with its recommendations. The lower House may thereupon either accept or reject any of these recommendations; whether any recommendations made by the Upper House are accepted or not, the Bill will be considered as passed by both the Houses. Also if the Bill is not returned by the Upper House within the prescribed period of 14 days, it is to be deemed to have been passed by both Houses after the expiry of that period.

A Bill after being passed by the Houses of Parliament is presented to the President, who either assents or withholds his assent. A non-money Bill can, however, be returned by the President with a message and the Houses of Parliament shall consider the amendment recommended by the President, but if the Houses again send up the Bill as originally passed, the President cannot withhold his assent.

It may be pointed out that the power of Rajya Sabha in respect of non-money Bills is equal to that of the Lok Sabha only technically

speaking, because in case of a conflict, at a joint sitting the majority opinion of Lok Sabha must prevail. In respect of financial matters, powers of Rajya Sabha are lesser than those conferred upon the other House; and they may be described as merely nominal. The budget is presented to the Upper House which has a right to hold a general discussion on all its items. But this occasion is utilized by its members only to express their opinions on the general working of the various departments of the State. However, no motions can be made in the Upper House and there is no taking of votes as well. The Rajya Sabha does not possess the right of voting grants; this is an exclusive privilege of the lower House.

## V. GOVERNMENT OF STATES

The Executive in the State consists of the Governor and a Council of Ministers. As in the case of the Union, there is the parliamentary type of executive in the States; so the Governor is the constitutional head and the Council of Ministers responsible to the Legislature is the real Executive. However, one noteworthy difference was there; while in the case of the Union the adoption of parliamentary form of government had been left to the growth of a convention, it was not so in the case of the States. But this difference has now been removed by the 42nd amendment, as the President is now bound by the advice of the Council of Ministers. The Constitution expressly provides that the Governor would be aided and advised by a Council of Ministers in the exercise of his functions, except in so far as he is by or under the Constitution required to exercise his functions or any of them in his discretion.<sup>1</sup> The executive power of the State is vested in the Governor and is exercised by him either directly or through officers subordinate to him in accordance with this constitution. Subject to the provisions of the constitution, it extends to the matters with respect to which the Legislature of the State has power to make laws.

### THE GOVERNOR

The Governor of a State is appointed by the President by warrant under his hand and seal. No person is eligible for appointment as Governor unless he is a citizen of India and has completed the age of thirty-five. In connection with the appointment of the Governor a desirable convention seems to be growing that the Union Cabinet before making its recommendation to the President consults

<sup>1</sup> *States of the Union* : (1) Andhra Pradesh, (2) Assam, (3) Bihar, (4) Gujarat, (5) Kerala, (6) Madhya Pradesh, (7) Tamil Nadu, (8) Maharashtra, (9) Karnataka, (10) Orissa, (11) Punjab, (12) Rajasthan, (13) Uttar Pradesh, (14) West Bengal, (15) Jammu and Kashmir, (16) Nagaland, (17) Haryana, (18) Himachal Pradesh, (19) Manipur, (20) Tripura, (21) Meghalaya, and (22) Sikkim.

the Cabinet of the State. Thus usually a person acceptable to the chosen leaders of the State is placed at the head. Another good practice adopted in this connection is that prominent and distinguished personalities of one State are appointed as Governors in other States and not in their own. He holds office during the pleasure of the President and he may resign his office. Subject to these provisions a Governor is to hold office for a term of 5 years from the date on which he enters upon his office. But he does not relinquish charge of his office, even when his term expires, until his successor enters upon his office.

The Constitution says that there shall be a Council of Ministers to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this constitution required to exercise his functions or any of them in his discretion. But, except in the case of Assam, the Governor has not been given any discretionary power by the Constitution. Even the Assam Governor is to act in his discretion only in respect of the administration of certain frontier tracts, which he administers as the agent of the President. The powers of a Governor are in fact analogous to the powers of the President. He cannot, of course, have any diplomatic or military power, nor has he been given any special emergency powers. But with this exception the account given of the President's powers will more or less apply to him, the only difference being that whereas the President's authority extends to the whole country, the authority of a Governor is limited to the area of a State. His powers may be stated briefly as follows :

All executive action of the Government of a State is taken in the name of the Governor. The Governor makes rules for the convenient transaction of the business of the State Government and for the allocation among his ministers of the said business. He appoints the Chief Minister and on his advice other Ministers. He also appoints chairman and members of the State Public Service commission and the Advocate-General. He nominates some members of the Legislative Council in the State where such a Council exists and he can also nominate a representative of the Anglo-Indian community to the Legislative Assembly, if he is satisfied that the community has failed to secure sufficient representation in the House. As the administrative head of the State he summons the sessions of the Legislature, prorogues the session and also dissolves the lower house at any time he thinks fit. He addresses the Legislature at the beginning of its first session every year and also has the right to send messages to the Legislature.

The Governor is an essential part of the Legislature; because no Bill passed by it can become a law until and unless it is assented to by the Governor. He may give his assent, or withhold his assent to a Bill, other than a Money Bill or Financial Bill; he may also return



the Bill for reconsideration by the Legislature in the light of any amendments recommended by him. Certain types of Bills are reserved by him for the signification of the President's assent. However, when a Bill is refused assent by the Governor or is returned by him to the Legislature for reconsideration, if it is again passed by the Legislature in its original or amended form, the Governor is bound to give his assent to it.

The Governor is also empowered to promulgate ordinances during the recess of the Legislature. But all such ordinances cease to operate at the expiration of six weeks from the re-assembly of the Legislature, or if before the expiration of that period a resolution disapproving it is passed by the Legislature. It is further provided that the Governor shall not without instructions from the President promulgate any such ordinance (a) if a Bill containing the same provisions would have required the previous sanction of the President for introduction into the Legislature; or (b) if the Governor would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the President; or (c) if an act of the Legislature containing the same provisions would have been necessarily reserved for the consideration of the President.

The Governor is required, in respect of every financial year, to cause to be laid before the Legislature the 'Annual Financial Statement,' showing the estimated receipts and expenditure of the State for the year. All demands for grants are placed before the Legislature on the recommendation of the Governor. He is also authorized to cause to be laid before the Legislature any statement for supplementary demands, *i. e.* additional expenditure. However, to Money and Financial Bills the Governor is not authorised to refuse his assent, because they are introduced only on his recommendation. He has also the power of granting pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted for any offence against any law relating to a matter to which the executive power of the State extends.

He is merely a constitutional and symbolic head, possessing practically no powers in reality and acting always on the advice of his Ministers. The role he is called upon to play, cannot be any other than the role of a respectable and impartial dignitary, standing above the vortex of party politics and always available to the State Government for consultation and guidance whenever leaders of that Government are inclined to seek them. But he contributes the stabilizing factor in an atmosphere of political fluctuations, and supplies to the people that ornamental symbol which represents their unity, appeals to their imagination and to some extent even to their love of pageantry.

But the Governor performs a very important role during an emergency in the State. Such an emergency is usually proclaimed by

the President on the receipt of a report from the Governor of the States, but may also be proclaimed if the President is otherwise satisfied that a situation has arisen in which government of the State cannot be carried on in accordance with the provisions of the Constitution. The Legislative Assemblies of nine States were dissolved and emergency was proclaimed in those States by the Acting President in May 1977, without receiving any reports from the governors to this effect, but on the basis of a decision of the Union Council of Ministers.

During such an emergency, the Governor acts as an agent of the President (*i. e.* of the Union Government); because he assumes to himself all or any of the functions of the government of the State and all or any of the powers vested in or exercisable by the Governor or anybody or authority in the State other than the Legislature of the State. In such a case the Governor is assisted by one or more advisors, appointed by the Union Government.<sup>1</sup>

#### THE COUNCIL OF MINISTERS

A Council of Ministers with the Chief Minister at its head aids and advises the Governor in the exercise of his functions, except where the Constitution lays down that the matter is in the discretion of the Governor. But it is for the Governor to decide finally as to which matter is in his discretion. Any advice given by the Ministers to the Governor cannot be enquired into by any court. The Governor appoints the Chief Minister and the other Ministers are appointed by the Governor on the advice of the Chief Minister. All Ministers hold their office during the pleasure of the Governor; but in actuality the Ministers, being responsible to the Legislature, remain in office so long as they continue to enjoy the confidence of the majority in the popular house and are removed by the Chief Minister. There is a special provision in regard to the composition of the Ministry in the States of Bihar, Orissa, and Madhya Pradesh that there shall be a Minister incharge of tribal welfare, who in addition may be incharge the welfare of the Scheduled Castes and Backward Classes or any other work.

The Council of Ministers is collectively responsible to the State Legislative Assembly, *i. e.*, all ministers have to support the decisions of the Cabinet inside and outside the Legislature and also whenever there is a vote of censure or vote of no-confidence against any particular Minister for a policy or decision approved by the Ministry, the whole Ministry must resign and not that particular Minister only. As regards the 'Powers of Ministers' it may be said that collectively they (i) determine the policy and programme of the Government, (ii) get the legislative measures passed in the Legislature, and (iii)

<sup>1</sup> The Relations between the Union and the States have been discussed in a seperate chapter.

prepare the budget. Individually each Minister is incharge of one or more portfolios and the political head of the departments placed in his charge.

In the State Ministry Chief Minister's position is analogous to that of the Prime Minister in the Union Ministry. He forms the Council of Ministers, presides over its meetings, and can reconstitute or reshuffle it in any way he likes, but keeping in mind that he must not lose the support of the majority in the Legislative Assembly or displease his own party colleagues. In a nut-shell, the formation and working of the Ministry, its powers and functions etc. are based on the same principles or practices as govern the Union Ministry.

#### CONDUCT OF GOVERNMENT BUSINESS

All executive action of the State Government is taken in the name of the Governor. Orders and other instruments made and executed in the name of the Governor are authenticated in such manner as specified in rules made by the Governor, and the validity of such an order cannot be called in question. The Governor is also required to make rules for the more convenient conduct of business and distribution of work among the Ministers, excepting the work that the constitution entrusts to the discretion of the Governor.

#### THE ADVOCATE-GENERAL FOR THE STATE

The Office of the Advocate General in the State is similar to that of the Attorney-General of India in the Union. The Advocate-General of each State is appointed by the Governor, and the person so appointed should be qualified to be a judge of the High Court. He gives advice to the State in such legal matters as are referred to him and performs such other duties of a legal nature as may be entrusted to him from time to time. He is also required to discharge functions conferred upon him by the Constitution or other law in force. He holds office during the pleasure of the Governor and receives remuneration fixed by him. He has the right of audience in all the courts of the State and also the right to take part in the proceedings of the Legislature and its committees, but he cannot vote in any House on any issue as he is not a regular member of the Legislature.

#### LEGISLATIVE ASSEMBLIES

Excepting the representatives of the Anglo-Indian community (who may be nominated by the Governor, all other members are chosen) by direct election. For this purpose a state is uniformly divided into territorial constituencies on the basis of not more than one member for every 75,000 of the population except in the case of the autonomous districts of Assam and the Cantonment and Municipality of Shillong. It is also provided that the total number

of members comprising an Assembly does not exceed 500 or is not less than 60. Further, after the completion of a new census, re-adjustment in territorial constituencies on population basis, as desired by Parliament, shall take place, but this is not to affect the representation till the dissolution of the then existing assembly.

#### LEGISLATIVE COUNCILS

Total number of members in the Legislative Council of a State cannot exceed  $\frac{1}{4}$ th of the members of the State Assembly and the minimum can in no case be less than 40. Until otherwise provided by law of Parliament, members of the Legislative Council are elected in the following manner :

(a) As nearly as may be,  $\frac{1}{3}$ rd by the members of the Municipalities, District Boards and such other local bodies as Parliament may specify;

(b) similarly  $\frac{1}{12}$ th by graduates of any University in India (or persons of equal qualifications) of at least 3 year's standing;

(c)  $\frac{1}{12}$ th by teachers of at least 3 years' standing in educational institutions not lower than the secondary school as Parliament may prescribe;

(d)  $\frac{1}{3}$ rd by members of the State Legislative Assembly from amongst those who are not members of the Assembly; and

(e) the remainder are nominated by the Governor from amongst persons having special knowledge or practical experience in respect of literature, science, art, co-operative movement and social service.

It is further provided that election under (a), (b) and (c) above are by territorial constituencies as prescribed by Parliament and that election is held in accordance with the system of proportional representation by means of a single transferable vote. The second condition is also applicable to (d) above.

The State Legislature is competent to make laws on all subjects included in the state list as well as in the concurrent list. But a State law on a subject included in the latter list becomes void to the extent of its repugnancy to the law of the Union, *i.e.* the latter prevails over the former. However, its powers are limited in these respects: (a) during the Proclamation of an Emergency the Union Parliament is also empowered to make laws even on subjects included in the state list; (b) on a resolution passed by Rajya Sabha by a  $\frac{2}{3}$ rd majority, Union Parliament can make a law in the national interest on a subject included in the state list; and (c) the Governor is required to reserve the following specified bills for the consideration and assent of the President: (i) a Bill for the purpose of acquiring property, (ii) a Bill imposing a tax on the sale or purchase of goods which have been declared by a law of Parliament as essential commodities of life,

and (iii) a Bill on a subject of the concurrent list, on which a law of the Union is already in force.

The State Legislature passes the annual budget *i.e.* approves proposals for taxation and demands for grants. The Appropriation Act and the Finance Act are passed by the State Legislature. When the State Government intends to borrow, it can only do so within the limits set by the Legislature. Thus the State Legislature has full control over the purse of the State.

The Ministry is responsible to the Legislature, but in actual practice to the lower House. Thus the Legislature exercises control over the Ministry. It can pass a motion of non-confidence or a vote of censure, consequent upon this the Ministry must resign. Ministers are also required to supply information asked for through questions put to them. The Legislature can pass an adjournment motion.

The Legislatures are also associated with the amending process in case of certain specified types of Bills. An amending Bill dealing with the distribution of powers, after having been passed by the Parliament must be ratified by at least half the Legislatures of the States, before it is sent to the President for his assent. The elected members of the Legislative Assembly also take part in the election of the President.

## VI. GOVERNMENT OF THE UNION TERRITORIES<sup>1</sup>

Save as otherwise provided by Parliament by law, every Union territory is administered by the President acting, to such extent as he thinks fit, through an administrator appointed by him with such designation as he may specify. Notwithstanding anything contained in Part VI, the President may appoint the Governor of a State as the administrator of an adjoining Union territory, and where a Governor is so appointed, he exercises his functions as such administrator independently of his Council of Ministers.

Parliament may by law create for any of the Union territories of Goa, Daman and Diu, Pondicherry, Mizoram and Arunachal Pradesh : (a) a body, whether elected or partly nominated and partly elected, to function as a Legislature for the Union territory, or (b) a Council of Ministers, or both with such constitution, powers and functions, in each case, as may be specified in the law. If at any time, except when the Legislature of Union territory is in session, the Administrator thereof is satisfied that circumstances exist which render it necessary for him to take immediate action, he may

<sup>1</sup> At present these are : (i) Delhi, (ii) The Andaman and Nicobar Islands, (iii) Lakshadweep, (iv) Dadra and Nagar Haveli, (v) ~~Goa~~ Daman and Diu, (vi) Pondicherry, (vii) Chandigarh, ~~(viii)~~ Mizoram and ~~(ix)~~ Arunachal Pradesh.

promulgate such ordinances as the circumstances appear to him to require.

The President may make regulations for the peace, progress and good government of the Union territories of (a) the Andaman and Nicobar Islands; (b) Lakshadweep; (c) Dadra and Nagar Haveli; (d) Goa, Daman and Diu; (e) Pondicherry; (f) Mizoram; and (g) Arunachal Pradesh.

Provided that when any body is created under article 239 (A) to function as a Legislature for the Union territory of Goa, Daman, and Diu, Pondicherry, Mizoram or Arunachal Pradesh, the President shall not make any regulation for the peace, progress and good government of that Union territory with effect from the date appointed for the first meeting of the Legislature.

Provided further that whenever the body functioning as a Legislature for the Union territory of Goa, Daman and Diu, Pondicherry, Mizoram or Arunachal Pradesh is dissolved, or the functioning of that body as such Legislature remains suspended on account of any action taken under any such law as is referred to in clause (1) of article 239 (A) the President may, during the period of such dissolution or suspension, make regulations for the peace, progress and good government of that Union territory. Any regulation so made may repeal or amend any Act made by Parliament or any other law which is for the time being applicable to the Union territory and when promulgated by the President, shall have the same force and effect as an Act of Parliament which applies to that territory.

## VII. SPECIAL PROVISIONS FOR SCHEDULED CASTES AND SCHEDULED TRIBES

### RESERVATION OF SEATS IN THE LOK SABHA

Seats are reserved in the Lok Sabha for (a) the Scheduled Castes, (b) Scheduled Tribes except those in the tribal areas of Assam but for such Tribes in the autonomous districts of Assam. The number of reserved seats is in proportion to the number allotted to the area or the state as the population of these castes or tribes bears to the total population of the area or State. Similarly, seats have been reserved in the Legislative Assemblies of States. In addition, the President can reserve two seats for the Anglo-Indian community in the Lok Sabha; in the same way, if the Governor of a State is of the opinion that the Anglo-Indian community needs representation, being not adequately represented, he may nominate one or two members of the community to the State Assembly as he considers appropriate. The reservation of seats shall cease after some time.

### APPOINTMENTS IN THE SERVICES

Claims of members of the Scheduled Castes and Scheduled Tribes

regarding appointments to services and posts under the Union and State Governments, consistently with the maintenance and efficiency of administration, are to be taken into consideration. In accordance with this general provision, in September 1950, the Government of India fixed specified percentages regarding the proportion of reservation in services for the Scheduled Castes and Scheduled Tribes. During the first two years from the commencement of the Constitution, members of the Anglo-Indian community were to be appointed to posts in the railway, customs, postal and telegraph services on the same basis as before 1947. But during the period of each succeeding two years such reserved quota was to be reduced by 10 per cent; however, at the end of 10 years, that is in 1960, all such reservations ceased. Similarly, special grants enjoyed prior to the commencement of the Constitution by the Anglo-Indian community in respect of education were progressively diminished so that they disappeared at the end of ten years.

#### SPECIAL OFFICER AND COMMISSION ETC.

A Special Officer for the scheduled castes, scheduled tribes, and other backward classes in accordance with the constitutional provision, has been appointed by the President. He is to investigate all matters relating to safeguards provided for such castes or tribes under the Constitution and to report to the President upon the working of such safeguards at intervals to be prescribed by the President who causes such reports to be laid before both Houses of Parliament. The President has also appointed a commission, as provided in the Constitution, for the purpose of investigating the social and educational conditions of the backward classes and the difficulties under which they labour. It is to make recommendations regarding the making of grants etc. with a view to the improvement of their conditions.

#### SPECIFICATION OF SCHEDULED CASTES AND SCHEDULED TRIBES

The President may after consulting the State Governor, by public notification, specify the castes, races or tribes etc., for the purpose of the Constitution, which shall be deemed to be the State Scheduled Castes and Scheduled Tribes. Parliament may however, by law add to or exclude from such a list.

#### CONTROL OF THE UNION OVER THE ADMINISTRATION OF SCHEDULED AREAS AND THE WELFARE OF SCHEDULED TRIBES

The Union executive power extends to the giving of directions to any State or the drawing up and execution of schemes specified in the direction to be essential for the welfare of the State Scheduled Tribes. The Constitution also provides for a Minister to be incharge of the affairs of Scheduled Castes, Scheduled Tribes etc. in the States of Orissa, Assam, Madhya Pradesh and Bihar.

The real intention of these special concessions and facilities, which consist mainly of seats in legislatures, reservation of posts in certain services and official aid for educational purposes, was to bring eventually these minorities in line with others, who do not need such concessions and to inspire confidence in them about their future under the new Indian polity. They are intended to meet the special needs of the present situation and in no way vitiate the basic character of the new State—viz. its secular character.

#### PROVISION FOR THE ADMINISTRATION OF SCHEDULED AREAS

An Advisory Council was formed in each State having Scheduled Areas. The President may also establish such a Council in a State which has scheduled tribes, though no scheduled areas. It consists of 20 members, 3/4ths of them being from amongst the representatives of these tribes or areas in the State Legislative Assembly. Its function is to give advice regarding the welfare of these tribes or areas on such matters as may be referred to it by the State Governor.

#### ADMINISTRATION OF SCHEDULED AREAS IN ASSAM

The administrative system for these areas in Assam is different from the usual administration of such areas in any other State; because the inhabitants of these areas have a totally different culture and ways of life. The scheduled areas of Assam have been divided into two parts. The first consists of 6 autonomous districts, comprising of Khasi, Jaintia, Lushai, Garo and Naga hill etc. In each autonomous district, there is a District Council consisting of at most 24 members, of whom 3/4ths are elected on the basis of adult franchise. There is also a Regional Council for each autonomous area. These Councils (district and regional) have been given powers to make laws on many subjects e. g. agricultural land, forest areas, establishment of village committee, village police, marriage, succession to property, etc. They also possess financial powers, viz. levying and realizing of land tax, and the Governor may grant them powers to hear civil and criminal suits as well as create courts. The other part comprises of north-east frontier region and areas inhabited by Naga Tribes. The administration of these areas is carried on by the Governor, as agent of the President. He is free to act in his discretion, in regard to the administration of these areas.



### CHAPTER III

## ROLE OF PUBLIC ADMINISTRATION IN FREE INDIA

### I. GROWTH OF THE ADMINISTRATIVE STATE

#### REASONS FOR ITS GROWTH

The history of modern administration varies from state to state owing to the peculiar conditions obtaining in different countries. As we looked at the administrative history of our own country in the first chapter, we found that Asoka the Great and many other Hindu as well as Muslim Kings made important contributions to governmental administration. Kautilya, the author of the famous work 'Artha-shastra', has been rightly credited with having contributed much to the subject of Public Administration. Research works, such as the Provincial Government of the Mughals; the Sultanate of Delhi, etc. bear testimony to the contributions of the Mughal rulers to the art of administration. Notwithstanding that, the fact remains that the rise of modern administration took place in Western countries.

We, therefore, propose to examine briefly the factors which have led to great expansion in the functions of modern states. Foremost among them is the rise of industrialisation, on account of which the whole fabric of their society has undergone tremendous changes, marked by the growth of cities. Urbanisation and business civilisation are its important consequences making modern life so very complex. But industrialisation itself has been the result of modern scientific inventions and discoveries, which have also led to great technological advance. Development of natural resources and modern means of transport and communication have furthered the progress of industrialisation in several countries. Waldo rightly remarks : 'Whatever else it may be, public administration is a response on the part of its creators to the modern world that Graham Wallas has named the 'Great Society'. The Establishment of the Inter-State Commerce Commission signalised the passage of the United States from a simple agricultural society into a highly complex and inter-related Great Society.'<sup>1</sup>

<sup>1</sup> D. Waldo, *The Administrative State*, 3-4.

Another significant factor responsible for the expansion of state activity is the change in political philosophy regarding the functions of the state. Whereas about a century back individualism was the accepted creed of politicians and statesmen, the growth of democratic institutions in the recent past has led to the adoption of the goal of social service or welfare state and the establishment of a socialist society. The Preamble and the Directive Principles of State Policy given in the Constitution of India significantly indicate the goal to be achieved. It may also be added here that both the Union and State Governments through the process of planning are moving in that direction.

The third factor which has led to a significant increase in state activity is the character of modern warfare. The two world wars and the resulting international situation have largely tended to increase the functions of the state. The fourth important factor is the vast increase in the population of most of the countries, particularly our own. The pressure of population has immensely complicated the problem of providing food, shelter and other necessities of life. This has necessarily led to the adoption of planning on the part of many states. The effects of these factors can easily be witnessed in our own country. The 'Great Society' has led to the establishment of 'Big Government' in almost every advancing country; and 'Big Government', in the words of Marx, 'requires a large apparatus to carry on its many functions.... One of the conspicuous characteristics of modern government is the large and still increasing number of functions. The performance of these functions requires elaborate administrative machinery.'<sup>1</sup>

The service state covers many activities which have led to the governmental employment of large numbers of personnel and the use of much money and materials. In its service role government does not merely command or forbid; it does many things itself, if only in giving counsel. The resultant scale and diversity of service activities give rise to some of the major managerial problems of government. Three types of services may be distinguished :

(1) Welfare services include many functions, some of long-standing but mostly recent, in which government functions at some level supplies free or low-priced services in fields like education, health, culture and recreation, social insurance, unemployment relief, housing and others.

(2) Facilitative services include public works of general utility, as in transportation, communications and power. They also include various stimulative aids of a research and informational nature.

(3) In the field of entrepreneurial services the government may lessen risks by acting indirectly as the insurer or guarantor of

<sup>1</sup> Marx, *The Administrative State*, 1.

certain desired developments; or it may loan funds; or it may invest in or become itself an operator of enterprises.

A reference to the planning and equilibrating state indicates how modern governments must equip themselves to analyze and to readjust the government's various activities in relation to each other and to the changing economic conditions. An indispensable basis for such action is widespread understanding and use of the macro-economic concepts of national income, savings and consumption going beyond the classical theory of the economics of the individual firm. Within the framework of these concepts, it is essential to have up-to-date and reliable statistics.<sup>1</sup>

#### PUBLIC ADMINISTRATION IN A MODERN PROGRESSIVE STATE

In a modern progressive state, public administration ensures the daily life of the individual as well as of the community. While the police maintains internal peace and order, the army defends the state against aggression. The courts administer justice and various departments of the government render varied services to the people. provision of modern amenities of life, education, health, improved means of transport and communication, and wider opportunities for employment and the efforts at improving the standard of life of the common masses are some of the important tasks undertaken by the progressive governments today. The fact is that in a welfare state public administration begins to care for the individual even when it is in the womb, in the form of pre-natal care of expectant mothers.

The individual in modern society is concerned with the public administration at every turn of his life. The very names of the various ministries and departments of a progressive government indicate the very much enlarged activities of the State. For example, the ministries or departments of External Affairs, Defence, Home, Food and Agriculture, Commerce, Industries, Railways and Transport, Labour, Scientific Research, Community Development, Education, Health, Social Welfare, Local Self-Government and Planning etc. are to be found to-day in most of the advanced countries of the world. These departments clearly show the varied positive and creative tasks which are now undertaken by the State. There is a large element of truth in the assertion that it is possible for a state to exist without a legislature or judiciary; but not even the most backward state can do without administrative machinery. Systems of government or constitutions come and go; but administration goes on for ever and survives even the great revolutions, of which the familiar examples are the French Revolution and the Bolshevik Revolution in Russia.

But public administration is much more, it is an essential instrument of social change and human welfare. The great changes

<sup>1</sup> A. W. Macmahon, *Delegation and Autonomy*, 5-7.

that are taking place in progressive states and the stupendous efforts to accomplish the goal of a welfare state are being made largely through the instrumentality of public administration; and new forms as well as techniques are being evolved for the purpose. Lepawsky writes : 'The administrative function, therefore, insures the continuance of the existing order with a minimum of effort and risk.... Administrators are, therefore, the stabilisers of society and the guardians of tradition....' Brooks Adams advocated that the chief function of administration should be to facilitate social change; and he wrote : 'It is in dealing with administration as I apprehend, that civilizations have usually, though not always, broken down, for it has been on administrative difficulties that revolutions have for the most part supervened....'<sup>1</sup>

The purposes of public administration have been completely reoriented, because the ends of modern State have been revolutionized. The State is expected today to be the accelerator of economic and social change and no longer remains the preserver of the status quo. So the functions of the modern State, and in consequence its public administration, are new both in their dynamism and in their universality. There is no limit to the services which the State is called upon to perform. The concept of service State has been almost universally accepted. The increase in the variety, number and complexity of functions that have to be performed by the modern State has resulted in an administrative lag. A serious imbalance exists between aspirations and performance, this imbalance constitutes a major obstacle to national development. The modern service State must, therefore, develop the administrative capacity to implement its programmes of economic and social progress. Charles Beard attributes perhaps the highest role to administration; to him it is the key science of contemporary civilization.<sup>2</sup> We would, therefore, like to conclude this section with the following remark of Charles Beard : 'There is no subject more important than this subject of Public Administration. The future of civilised government, and even, I think, of civilization itself, rests upon our ability, to develop a service and philosophy and a practice of administration competent to discharge the public functions of civilised society.'<sup>3</sup>

## II. DEMOCRATIC ADMINISTRATION

### DEMOCRATISATION OF ADMINISTRATION

Of the three main forms of government—Monarchy, Aristocracy and Democracy—each has a certain form of accepted governmental functions. The instruments of action at the disposal of government

<sup>1</sup> A. Lepawsky (ed.), *Administration*, 9-11.

<sup>2</sup> *Ibid.*, 18.

<sup>3</sup> Quoted by Dimock and Dimock in *Public Administration*, 2.

are designed and expected to perform these functions to the positive satisfaction of those who wield governmental power and at least to the tolerant and passive approval of the general body of citizens. W.F. Willoughby has rightly remarked that political factor, *i. e.*, the type of constitution has much to do with the form of administrative system. Consequently, democratic administration cannot possibly be had under an autocratic or aristocratic rule. 'Democratic administration', says Ordway Tead, 'is impossible to operate in a society where static stratifying of social rank and status prevails or where an authoritarian political rule effectively dominates the scene.'<sup>1</sup> We may add that caste prejudices of the villagers in India are a great obstacle in the way of democratic institutions which are now being established in the villages. For a democratic administration wide belief in the virtues of democracy on the part of the people and the administrators is an essential requisite. One of the assumptions of democracy is that 'democracy is the people organised to serve themselves.' Naturally, therefore, democratic administration should offer adequate opportunities to the mass of people to participate in its operations. Three important features of democratic administration are : (i) it functions in the interest of the people and not of a class or section of the people; (ii) it is susceptible to public opinion and respects civil and political liberties; and (iii) it is subordinate to the control of ministers responsible to the legislature.

In our opinion, the two pillars of democracy are liberty and equality, so the two ends to be served by democratic administration should be the furtherance of both liberty and equality. By liberty we shall also mean economic freedom or at least freedom from want. In the same way, equality implies not only equality in the political sphere, but also in the social and economic spheres. In order to achieve these objectives, a Social Service or Welfare State has become a necessity. In addition, developing countries, like ours, are endeavouring to achieve this goal through planning and socialism. On this score, some people criticise the new efforts the administration is making. They maintain that in a planned society freedom of the individual is bound to be restricted. It is true that restrictions have to be placed by the State on the freedom of many people but this is necessary in order that the vast majority of the poor people may also taste the fruits of freedom.

There is another impression widely held that by democratisation of administration, *i. e.*, by offering adequate opportunities to the common people for participation in administration, efficiency is bound to suffer. It is true that in the early stages, efficiency of administration may suffer, but in the long-run when people begin to realise their responsibilities and get enough opportunities for training, democratic administration would gain in efficiency. It

<sup>1</sup> Ordway Tead, *The Art of Administration*, 2.

should also be noted that 'democracy and efficiency can be made to work in harmony without weakening either. It is not an easy blend to make and there are many chances of failure.

#### ESSENCE OF DEMOCRATIC ADMINISTRATION

The essence of democratic administration, according to Lilianthal, is doing things with people, not to them, and placing the responsible administrators close to the people where they must share the peoples' problems. According to Karve, the essentials of democratic administration are : (1) efficiency of administration in a democracy includes and is promoted by widespread opportunities given to the citizens to participate in the making and execution of governmental decisions; (2) when the choice is between doing a function undemocratically and not doing at all, the latter alternative must as a rule be preferred; (3) in building the administrative structure the individual and his immediate locality should be the base; higher structure should be resorted to only for such functions as are essential to the safety and welfare of the community; and (4) no administrative function should be vested in authorities, who are not statutorily answerable for their actions.<sup>1</sup>

'In a democracy,' as pointed out by H. M. Patel, 'the responsibility for public administration rests primarily with the government, and government means those in whom the Constitution vests the right to formulate policies, initiate legislation and ensure the enforcement of laws of the State as well as the execution of policies and decisions of government on behalf of the people. It is because of this constitutional position that the Parliament has the privilege of calling for information on any matter concerning the government of the country and for generally pronouncing upon the acts of commission and omission of the government. If the administration of the country functions unsatisfactorily and the Parliament is convinced of it, it has the right to call upon the government to explain why the administration is functioning unsatisfactorily and to insist upon adequate steps being taken to ensure that necessary improvements are effected.'<sup>2</sup>

Under the changed conditions in India, new criteria have to be evolved and impressed upon the officials in the districts. For example, officials must keep themselves fully informed through consultations, inquiries and procedures, which enable them to be aware of the mind of the governed. Officials must avoid an arrogant disposition; they should not substitute their opinion in place of the expressed wishes of a deliberative body, which must be given the opportunity to learn by experience. Administrative power must be

<sup>1</sup> D. G. Karve, *Public Administration in a Democracy*, 10-11.

<sup>2</sup> See Article, 'The Outlook for Future' in *I.J.P.A.*, Vol. IX, No. 3, 517.

submissive in the sense that the policies reflect the desire of the people at the village or block level. At all times the attitude of the officials should be friendly to the governed.<sup>1</sup>

Public cooperation has been recognised as an essential condition for the success of our plans. 'In the context of democracy, administration is effective in the measure it is based in its day-to-day working on the participation and support of the people. The people in the rural areas are now coming into their own. Direct responsibility for the administration of their affairs is being passed on to them as Panchayat-Raj gets established in one State after another.'<sup>2</sup> Community development programme and the extension of cooperatives have greatly stressed people's participation in administration.

Public administration of the country needs reorientation into a 'dynamic instrument of social engineering.' Such reorientation demands a drastic change in the country's sense of values, which at present tend to revolve round political power. It must be recognised that no problem can be solved by the mere exercise of political power. Social administration has to be human and imaginative and not be hide bound by rules and regulations ; and it has to be 'participative' with the fullest public cooperation.

The first task, then, is tuning the spirit of government to what the people want. What the people want is formed by the synthesis of a great many diffuse elements in a given period of time. The inner circle of every government is the political system, which encloses the administrative system. Max Weber in his 'Essays on Sociology' very succinctly sums up the position when he states that democracy as such is opposed to the 'rule' of bureaucracy as it allows concentration of power in the hands of those who are in charge of bureaucratic machinery and that such a concentration of power is against the premises of democracy. However, he was practical enough to admit that without a civil service class, democracy could be plagued by a spoils system, public waste, irregularities and lack of efficiency. Thus democracy has to promote what reason demands and democratic sentiments hate. This requires a deep insight into the problem of interaction between democracy and the bureaucratic system.

In a parliamentary democracy like ours, there are three partners engaged in a common enterprise of bettering the lot of the people : the Legislators, the Ministers and the Civil Servants. This is a partnership for pursuit of certain objectives and it depends upon the respective roles of the partners concerned as to whether these objectives can be achieved or not. Parliamentary democracies have established certain conventions in their political systems. In India

<sup>1</sup> See Lecture by C. Ś. Venkatachar on 'Administration : Then and Now' at I. I. P. A., 2 and 4 March 1963.

<sup>2</sup> See *Third Five Year Plan*, 291.

although the executive power is vested in the President of the Republic or Governor of the State, it is exercised through the Council of Ministers at the Centre in case of the President and the Council of Ministers in the State in case of the Governor. The Councils of Ministers in both the cases are responsible collectively to their respective Legislatures. The Civil Servants help the Ministers in policy formulation and they are also responsible for the execution of the policy decided upon by the Government. The neutrality of the civil service is an important quality; and it signifies that Civil Servants are non-political and loyal to the Government in power.

The politician has developed what may be termed 'perception of the administrative role'. A legislator feels that, as a representative of the people, it is his duty to meet the demands of his electorate and to remove their grievances; and in fact his political fortunes largely depend on his ability to do so. The demands, which the services call complaints and interference, may be grouped as follows: (1) Developmental demands; (2) Corruption, bribery and graft; (3) Employment and unemployment; (4) Appointment, transfer, posting and cancellation of such orders; (5) Grant of favours by way of permit, quota, licences, etc.; and (6) Assorted demands.

The services, on the other hand, follow the legal (rational) authority system except in certain cases. The main features of the system which the services seek to follow generally are the following: (1) Obedience is given to the legally established impersonal order; (2) Person in authority occupies an office which forms part of a hierarchy with an accepted machinery for appeal and grievance; (3) All decisions are to be made in writing in accordance with law; and (4) There is no punishment for violation of the ultimate objectives of the administrative system so long as rules are obeyed.

The new public administration should attempt to make the best of these two approaches. The important points of such a new administration may be summarised as:

(1) The bureaucratic system is continually inter-acting with the political, economic and socio-cultural rule-systems in a society. It is a modifying influence upon these systems and at the same time gets itself modified by activities of these related systems.

(2) The advice, support and guidance of persons actively associated with the political system are gradually being considered essential by the services in successful implementation of their administrative tasks.

(3) The political system throws up leaders who act as vital respondents reflecting the felt-needs of the people to guide the civil servants operating at the field level.

(4) A substantial amount of interference does take place as studies have revealed due to complicity of civil servants themselves with the beneficiaries of the political system.



(5) The areas of cooperation between the bureaucracy and the political system are actually enlarging.

(6) The new public administration is witnessing changes in the socio-economic background of the services as well as educational and cultural ethos of the politicians.<sup>1</sup>

### III. CITIZEN AND THE PUBLIC ADMINISTRATION

Citizen has been defined by Aristotle as one to whom belongs the right of taking part both in deliberative or legislative and the judicial proceedings of the community of which he is a member. A citizen, therefore, in this sense can be found only in a free country. Between a citizen and subject there is a distinction. A subject is merely governed but a citizen is not only governed but also governs. After Independence, our country accepted a democratic form of Government, which implies self-government as contrasted with other forms of government. Naturally, therefore, the subjects of pre-independence period have acquired the status of citizens of a free country.

The concepts of welfare and planning and the ideological and emotional factors, if not the practical and organizational involvement of the common people in almost all forms of national government, create the need of more sophisticated forms of administration than were needed in any of the earlier forms of government. Changes in technology and in the composition of the socially most effective class of people lead to almost continuous political transformation. Dissatisfaction, if not positive discontent, is almost a normal feature of political life. Hence of the whole structure of government no part is so continuously under a challenge as the administrative or executive agencies.

#### CITIZEN AND ADMINISTRATION : MUTUAL RESPONSE

On the subject of mutual response between the citizen and administration, the following points deserve to be noted : In the context of a Parliamentary democracy which we are currently practising the relation between the Administration—from Minister to a policeman or village level worker—and the citizen is that of servant to master. That this relationship is not personalized, in the sense that each individual official is the servant of each individual citizen does not take away from the fact that whenever the two come into contact with each other their mutual status in democracy is just the reverse of what it was in a bureaucracy. Doing the best one can, as quickly and courteously as possible, in all dealings with citizens is the most noticeable characteristic of efficient democratic administration.

<sup>1</sup> See B. P. Singh, *The Emergence of a New Pattern of Administration*, *I. J. P. A.*, Oct-Dec. 1973, 604-08.

tion. Doing as little as one must so as to avoid blame, and doing it without any necessary consideration of the convenience and feelings of citizens is an obvious vice of bureaucracy which it cannot conceal. There is no doubt at all that during the short period of our independent political existence considerable progress has been made in transforming a bureaucratic into a democratic administration.

One of the major obstacles in securing full response between official action and the citizen's acceptance or co-operative compliance is the inadequate effort made; either before or after making a law or a rule, for educating the public both in its purpose and content, and the procedure of its implementation. Most of the Bills presented to legislative bodies, and almost all the rules and bye-laws are now drafted by professional staff who have only a general briefing on the desired objects. There is some agitational discussion in the press, on the platforms and within the legislature. But the habit of detailed discussion of intrinsic merits of the formulation of laws and rules is falling into disuse. The dominating position which the ruling party enjoyed in final voting took away all political incentive for undertaking an educative or persuasive attitude on any subject, either within or outside the legislature. What the politicians have left undone, cannot be fully achieved by the service personnel. A very welcome vogue of appointing non-official advisory committees can be used for more effective education, both of the officers and of the public.

Planning as a technique of managing affairs of public institutions has come to stay. In essence it is no more than a rational and co-operative process of using available resources so as to achieve most satisfactory results. In this process knowledge, competence and co-operative involvement of all concerned must be combined in an appropriate manner. Not only democracy generally, but each aspect of the operation of a democratic society, must be demonstrably and realistically organised as an activity of the people, by the people and for the people, including all concerned beneficiaries, operators and decision-makers. A cooperative relationship among all these, and not the confrontation between government and subjects which was traditional in the older theories of administration, should become more and more normal in the behaviour of the people if they aspire to a democratic living.

When the affairs of State are running smoothly the greatest amount of cooperation would naturally prevail between citizens and the administration at all levels. The citizens as a body would be recognized as the object of the most efficient and courteous service which administration can render, as on their part the citizens themselves, jointly and severally, would recognize their own responsibility to help in the efficient implementation of law which is the creation

of their own will. It is when such ideal conditions do not prevail that limitations on the quality of administration begin to appear. Passing defects in the administrative system or personnel can be corrected by suitable measures, if the citizen body is possessed of the virtues which are the presumptive basis of a democratic system. Minor and remediable drawbacks in these respects can and ought to be corrected by suitable action on the part of the leaders of the people. The administrators themselves can help forward this process of progressive education in so far as the system of government permits the administration to follow and uphold standards of fair and efficient discharge of their duties. But deep-seated and continuing traits of the people at large, that is of the body politic, can hardly be corrected by the administration.<sup>1</sup>

The main objectives of administration should be stated in operational terms of promoting citizen satisfaction. Just as in Economics, the concept of consumer satisfaction governs production and distribution, so also in Public Administration the concept of 'citizen satisfaction' should be regarded as the critical factor for determining the acceptability or legitimacy of the government. Implicitly, this has always been the case, particularly in representative democracies with plural parties competing for power. It is becoming increasingly important for mobilizing the willing co-operation of citizens to survive and grow in the competitive world economy and society. The concept of 'citizen satisfaction' requires greater concretization in institutional and operational terms than is implied in the concept of consent of the governed or citizens as sovereigns.

This has not so far happened in the science of public administration, because administration is diffused in process, fragmented in character and highly abstract and imperceptible for control. Moreover, administration is hierarchical and publics are plural. Which administration and which citizen are we having in mind when we speak of administration and citizen is not always specific. Further, different citizens get into touch with administration at different levels, such as the secretariat, the directorate and the 'cutting-edge' or counter levels. The bulk of the citizens come into contact with the civil servants at the bottom, such as the policeman or a postal clerk or a bill collector. Both citizens and civil servants at this level are inarticulate and uninfluential. For those dealing at higher levels, the difficulties are softened by contacts in clubs or through other influential ways, but at the bottom, helplessness breeds frustration. The problem of 'citizen dissatisfaction' as well as 'civil servants' point of view at the lower levels goes unrepresented and unattended to. The forums of legislatures (during 'question hours' and debates, committees on petitions, etc.) no doubt exist but they too concern themselves with

<sup>1</sup> D. G. Karve, *Citizen and Administration: Mutual Responses*, *I. J. P. A.*, July-September 1966, 337-42.

broader issues than particular instances. Ventilation through press has limited appeal, because civil servants are 'neutral, impersonal and impartial' and responsibility could not be fixed on any particular person for shortfalls or failures or deficiencies or misdemeanours. Limitations like these make it necessary to concretize and operationalize the objective of 'citizen satisfaction' and the administrative processes affecting this objective.

Three fields could be mentioned in this context : firstly, the proneness for co-operativeness between the administration and the citizen; secondly, the active association and participation of citizens in administration; and thirdly, the channels for articulation and redressal of citizens' grievances and the degree of citizens' confidence in their functioning fairly and speedily. These three could be regarded as reliable indicators; if these are taken care of, they may secure sound relationship between administration and the citizen. If these could be adequately safeguarded from the standpoint of the objective stated above, we could concretize the subject.

The term cooperation implies a two-sided readiness to work together with mutual trust and understanding. It implies administrative responsiveness to the needs and demands of citizens as well as citizens' knowledge and sympathy with the administrative system's functioning and the limitations under which the individual administrators work. Callousness, aloofness, haughtiness, suspicion and resentment of administrators towards citizens' requests and demands are misplaced any time, anywhere, but more so in the emerging culture of democracy as much as the ignorance, indifference, reluctance, fear and recrimination by citizens. The proneness for co-operativeness is reflected in what are called 'convergent' attitudes and actions of citizens, *i. e.*, where citizens support government's policies and programmes. Citizens may differ from them but they should not disrupt administration by 'divergent' actions, such as violent demonstrations, destruction of public property, etc. Differences could be and are often settled by constitutional means and over a period of time differences get sorted out and ironed among communities committed to democratic behaviour.

Citizen association with and participation in administration is much desired but little achieved. The traditional democracies operate with conventional ideas, like free and fair election, multiple parties, and elected legislatures as effective forums for discussion, consultation through and criticism of advisory bodies or ad hoc commissions, free press, freedom for organization and associations, etc. These are a necessary infra-structure and serve a useful purpose. But the new culture demands something more and better than associating vocal citizens with advisory committees to represent the interest groups or the beneficiaries' view-point. Participation in the political process of voting and representation in the legislatures and

in the cabinets is a preliminary process and a good index of political maturity.

However, two trends are manifest in the citizen association-participation syndrome in administration. On one side, participation by individual citizens, enlightened or otherwise, is giving way to domination by special interest groups or members of political parties. On the other side, new links are forged between the interested associations and the corresponding departments in government whereby the administration yields to the big bosses among the pressure groups, sometimes ignoring 'public interests'. In other words, we see distortions in the traditional channels of participation. Old assumptions and veneration for old institutions are blocking the administrative system from adapting itself to the new demands.

The increasing activities of government and the penetration of bureaucracy into remote areas of the country enhance the scope for grievances to multiply. Along with the increase in the breadth and depth of governmental activities, much change has not taken place in the traditional attitudes of civil servants and methods of communication of the government with the public. Extension methods in the development programmes constitute a desirable departure from the past, but unfortunately the extension officers also, by and large, tend to become bureaucratized. Further, the thin spread of limited resources on a variety of programmes in vast areas has roused expectations without any prospect of providing satisfaction. Consequently, complaints and grievances of the people, both with the quality and adequacy of services, are galore.

The major components of the citizens-bureaucrat relationship which we consider essential are : (1) adequate citizen and official knowledge of administrative norms, practices, and structure; (2) genuine support for the goals, policies, and programmes of the government; (3) perceptions of the administrative system as sensitive and responsive to the public, rather than inflexible and remote; (4) belief in the integrity and honesty of the administrative cadre, rather than a tendency to view it as corrupt or corruptible; (5) a high prestige status for public employment; (6) perception of administrators as committed to egalitarian goals and practices, rather than to favouritism or political advantage; (7) feelings of efficacy and optimism about citizen action in the political system generally, and in the administrative sub-system particularly; and (8) motivational orientations emphasizing cooperative action with administrative officials in the implementation of development goals.<sup>1</sup>

In recent years much effort has been made both by the Central and the State Governments to rationalise work methods and procedures, but much more remains to be done particularly at that

<sup>1</sup> V. Jagannadhan, *Administration and the Citizens, I. J. P. A.*, Oct.-Dec. 1971, 614-15.

level of administration which touches the citizen's every-day life. The simplification of procedures should take into account matters like : (a) Regard for public comfort and convenience, (b) Speed in disposal of applications; (c) Reduction in the number of levels required to examine cases; (d) Reduction in the number of agencies with which the citizen has to deal with; this has particular importance for rural areas; (e) Supply of detailed information to the citizen as to how he is to go about to receive a certain benefit or approval from administration.

'Administration is a dynamic institution. It influences and is influenced by economic, social and political institutions; the degree of influence being determined by the form of government. The character of administration is similarly determined by the society that it purports to serve. The administration today, therefore, is undergoing a radical change in its character. The State is entering as a major collaborator in business; and even though ours is a mixed economy, there is a rapid increase in public sector undertakings. Besides the need to get socio-economic content to political freedom, other factors which have contributed to change in the complexion of administration are : (a) modernisation of society due to influence of scientific and technological advance; (b) complex nature of administration and political organisations that are being set up in the country; (c) introduction of people's institutions both in rural and urban areas; and (d) people's awareness of their problems and their expectations for their quick solution.<sup>1</sup>

#### IV. DEVELOPMENT ADMINISTRATION

Generally Development Administration is confused with good public administration, but it definitely has a distinctive identity in relation to the developing countries which strive to attain self-generated economic growth. 'The administration has to play a more positive and dynamic role in fulfilling hopes and aspiration in response to environmental changes. The changed social and political conditions demand increased attention to matters like maintenance of stability and security, promotion of national integration and reinforcement of social discipline in the community at large. The accelerated pace of development requires increased diversification and specialisation of knowledge and skills and high level of managerial ability for integrative co-ordination.'

Development as a process has been regarded by some of the scholars as a change over from a transitional society or as a modernization process, but in a U. N. publication the term 'Develop-

<sup>1</sup> B. Mehta, *Dynamics of Administration*, 76.

ment' has been used as 'the process of allowing and encouraging people to meet their own aspirations.' 'Development administration ordinarily involves the establishment of machinery for planning economic growth and mobilizing and allocating resources to expand national income.' The transformation of society from its relatively underdeveloped social, economic and political conditions to a well-developed polity, must be planned in such a way that the government becomes the principal planner, energiser, promoter, and director of accelerated development effort. In order to achieve this objective the focus of bureaucracy must change from the preservation of law and order to the achievement of targets, to accomplish most rapidly with least waste and least failures. Technological progress and the vast amount of new knowledge have made a major impact on these tasks and on the process of taking decisions.<sup>1</sup>

#### OBJECTIVES OF DEVELOPMENT ADMINISTRATION

In short, the twin goals of development, are nation-building and socio-economic progress. Esman describes nation-building as 'the deliberate fashioning of an integrated political community within fixed geographic boundaries in which the nation-state is the dominant political institution. The related goal of social and economic progress is identified by Esman as 'the sustained and widely diffused improvement in material and social welfare.' For healthy survival, Public Administration should be more and more action-oriented to public problems. Public Administration must become more developmental and 'change-agent' oriented. Thus, it should (a) provide more and better life-sustaining goods to members of societies; (b) create or improve material conditions of life in some way related to a perceived need for esteem; and (c) free men from servitude (to nature, to ignorance, to other men, to institutions, to beliefs, etc.) considered oppressive, so as to release them for positive self-actualisation. '...in common usage of the term, a rapidly developing country is a goal-oriented country, headed in the direction of modernity, with special emphasis on nation-building and socio-economic progress.'<sup>2</sup>

The term 'Development Administration' generally has a dual meaning: First, development administration refers to the administration of development programmes to the methods used by large-scale organisations, notably governments, to implement policies and plans designed to meet their developmental objectives. A second meaning associated with the term development administration, by

<sup>1</sup> *The Fulton Report*, The Civil Service, London 1968, 10.

<sup>2</sup> Faisal Al-Salem, *The Ecological Dimensions of Development Administration*, 7-11.

implication rather than directly, involves the strengthening of administrative capabilities. Administrative development in low-income countries has generally been defined as 'a pattern of increasing effectiveness in the utilization of available means to achieve prescribed goals.' It, therefore, involves both qualitative and quantitative changes in bureaucratic policies, programmes, procedures and methods of work, organisational structures and staffing patterns, number and quality of development personnel of different types and patterns of relations with clients of administration.

Public administration in general and development administration in particular are closely linked with 'increasing the capacity of the State to produce goods and services to meet and induce changing and expanding demands.' In brief, the present and future priorities of developmental administration are :

(1) The role of government will continue to expand and direct the over-all process of development.

(2) Government activities will become increasingly complex and specialised.

(3) The need for planning, coordination and control will be greater.

(4) Administrative attempt at dominating the political process is expected to continue.

(5) Managerial orientations and techniques will play a crucial role in speeding up the process of development.

(6) Human well-being will continue to be the central concern of public administration.

(7) Public administrators will increasingly become more change-oriented and development-oriented.

(8) The role of administrative reform and management improvement will be greatly stressed.

(9) Personnel training and management is crucial to the whole process of development administration.<sup>1</sup>

#### DEVELOPMENT ADMINISTRATION IN A DEVELOPING COUNTRY

It has been argued that rapid economic development is likely to be retarded by a pluralistic political system. There is a prevalent belief that efficiency in the allocation of resources and discipline in controlling current consumption is more likely in one-party systems where there is a minimum of competitive politics. This point of view classifies democracy as a luxury which can best be afforded only after the big push for development. But it has been contended by Lucian Pye that most traditional societies will realise more effective administration only if they broaden and more explicitly organise the non-bureaucratic components of the political process. However, it

<sup>1</sup> *Ibid.*, 189-95.



may be recognised that under certain very special and limited conditions there may be some advantages in highly centralised authoritarian methods. For example, after a period of prolonged disruption, or when there are acutely conflicting objectives of development and little consensus as to ultimate goals for the society, there may be advantages in arbitrary decision-making.

In the end some of the pre-requisites of development are :

- (1) There should be a working partnership between the leadership and people.
- (2) No development programme can be helpful without efficiency of the services.
- (3) The field staff must be devoted to the tasks, work with the rural masses and carry them along with their developmental efforts.
- (4) The knowledge of local needs is very essential because a good deal of planning and budgeting is done at the local level.
- (5) There should be a sense of service and a spirit of dedication on the part of the leaders at all levels.
- (6) The administration functions through proliferation of authority and initiative. There should be proper-coordination of all the agencies which are engaged in development.
- (7) There should be a constant desire on the part of each organisation to take a look at its own activities.
- (8) New disciplines have to be mastered, both within the administration and outside, technological changes have to be understood and assimilated.

## V. PUBLIC ADMINISTRATION IN FREE INDIA

### IMPORTANT FEATURES OF PUBLIC ADMINISTRATION

Some of the important features of the present Indian administration, may briefly be stated as :

- (1) Its reluctance to make a distinction between federal and state spheres of action, resulting in a proliferation of organisations engaged in tasks which under the Constitution are within the jurisdiction of the States. Such organizations exist not only at the headquarters of the Government of India but have also been set up extensively at the field level. The Planning Commission has also set up units dealing with state subjects like agriculture, education, health, etc. While the central government cannot completely absolve itself of its interest in the states' sphere of functions the maintenance of full-fledged ministries dealing with states' subjects is reflective of psychological recalcitrance of the federal principle of the constitution.
- (2) The second feature of Indian administration has been a constant imbalance between thinking and action, planning and implementation. Good administration lies in a realistic assessment of available resources of requisite quality and quantity, which should

determine the upper limit of a consideration. This idea is seldom taken into account in the country. It is naively believed that finance is the only relevant criterion to determine the acceptance of a scheme; and it is little realized that the greatest limitation in the way of implementation of a scheme is the paucity of qualified personnel itself.

(3) It suffers from a high-degree obsession with hierarchy, status, rank and emoluments. According to Gunnar Myrdal, one of the striking features of the administrative structure the British erected and the Indians inherited is its compatibility with the caste system. On account of this complaints are often heard about the aloofness of Indian officials in their dealings with the public and about their exaggerated notions of personal status.

(4) The new government did not discard pomp and show, although the nationalist leaders had consistently condemned the British Indian Government for indulging in ostentation while the people groaned under poverty. Jawaharlal Nehru indignantly lashed out: 'The imperial splendour became the measure of the people's poverty', so we are told (by the Joint Parliamentary Committee, 1934) of the Mughal times. It is a just observation, but may we not apply the same measure today? What of New Delhi today with its viceregal pomp and pageantry, and the provincial governors with all their ostentation? And all this with a background of abject and astonishing poverty.<sup>1</sup>

#### ROLE OF PUBLIC ADMINISTRATION TODAY

In a free democratic country of our dimensions, a study of administrative processes can be neglected only at great peril. It is true that at the time of transfer of power, India was lucky to inherit a coherent and well-knit administrative machinery which had the capability of grappling with problems of diverse nature and magnitude. But one cannot deny that the administrative apparatus which free India inherited was primarily oriented to maintenance of law and order, collection of taxes and settlement of litigations. Naturally it had a culture, which though adequate for these purposes, could hardly cope with the objectives geared to rapid economic development, fostering of social justice, and building of an egalitarian society.

It is to be admitted that so far as their official duties are concerned, administrators have, by and large, moulded themselves to the new climate and are exhibiting the courtesy, consideration and responsiveness expected of public functionaries. Yet, there continues feeling that outside the ambit of their official duties, administrators, particularly the senior services, maintain a pattern of social intercourse which is characterised by reserve. But it must be

<sup>1</sup> S. R. Maheshwari, *The Evolution of Indian Administration*, 17-20.

remembered that in India with its distinctive ethical values and traditions evolved over centuries, the official and private lives of public functionaries cannot be separated. The Indian mind is tuned to visualise in its public functionaries, not only qualities of industry and competence but virtues of integrity and character.

‘Another feature of the administrative structure which we inherited was that instead of being result-oriented it was a procedure-oriented system. Since the Britishers had limited aims of governance in this country and they were few, they had to manage with a large army of Indians employed in subordinate positions whom they were not inclined to trust. Consequently they evolved a pattern of administration which was characterised by checks and balances. The upshot was that while there were adequate safeguards to prevent wrong action being taken, there were few incentives to ensure that many right decisions were implemented. The excessive pre-occupation with scrutiny, analysis, and copious note writing was the result of this lack of trust.’ While procedure is inescapable in any organised system of governance, it cannot be an end in itself, because the large millions who are affected by administrative processes are interested in the results of governance and not the mechanics of decision-making.

Similarly, there is need to examine whether the traditional doctrines of anonymity and neutrality of civil servants can withstand the stresses of our times. The classical doctrine of anonymity of civil services was evolved in Great Britain and the central thesis was that the political executive should take the lime-light and face the challenges which flow from it. Under the cover and protection of the political executive the civil servants may be enabled to apply themselves to their assigned tasks in an atmosphere of relative quiet and tranquillity. In a developing country like India, administrators and managers also play a leadership role and it seems inconceivable today that the Collector of a district or the head of a large public undertaking or the manager of a big project can any longer operate under cover of anonymity; they are constantly under public gaze, their actions are well-known and to that extent they are functioning in glass houses.<sup>1</sup>

Jagjivan Ram has drawn the attention of public servants to the commitment aspect, ‘When during my presidential address at the Bombay Congress session, I mentioned about a committed civil servant, I did not envisage commitment to the political party in power. What I meant was that a civil servant or an administrator must be committed to the principles enshrined in the Constitution. It is this broad commitment which is the cornerstone of the edifice

<sup>1</sup> See P. C. Sethi, *New Challenges in Administration*, I, J. P. A., April-June 1975, 167-70,

and not attachment to any particular party in power.<sup>1</sup>

'I would, however, certainly urge that this commitment of the civil servant to the Constitution must be demonstrated in some positive ways. Today it does not seem to be so. As I said the real administration is in the field at the State and the district levels and ways must be found out to demonstrate this commitment. The administration at Delhi is highly impersonal and appears distant from the grass-roots. Several years back I found out that those who are promoted from the Central Secretariat Service to higher positions did not possess a clear conception of the problems of the States and the districts because they had no practical knowledge about them.' The Directive Principles of State Policy, as enshrined in the Constitution, have a bearing on social welfare. They enjoin the State to ensure that 'the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age and strength', and that 'childhood and youth are protected against exploitation and against moral and material abandonment.'<sup>2</sup>

'Social welfare has been defined differently by different people at different times, but broadly speaking it would mean all those efforts that are undertaken either by governmental agencies or through private initiative and are directed towards assisting individuals and families, groups and communities to attain a healthy and decent standard of living and socially satisfying relations with others in order that they could be self-supporting and contributing members of the society in which they live. The other and more specialized meaning of social welfare is in terms of the various services which could be described as social services or enabling services designed for those individuals and groups who cannot take full advantage of the established social services on account of their backwardness.... This increase in and orientation of governmental activity has naturally resulted in multiplicity of agencies to deal with them. That, in its turn, has opened up new avenues to the administration for coming in direct contact with the people in their activities for the realization of the rising expectations of their economic and social improvement.'<sup>2</sup>

The social welfare services in the last two decades have sought to serve the development and rehabilitation needs of the weaker sections of society, especially the physically and socially handicapped, women and children from the vulnerable sections of the community in rural and tribal areas and urban slums. The expenditure on social welfare programmes since the beginning of the First Plan is given in the following table :

<sup>1</sup> Jagjivan Ram's speech at Bhopal on 25 May 1975.

<sup>2</sup> Other Directive Principles of State Policy have been given in the preceding chapter.

<sup>2</sup> B. Mehta, *op. cit.*, 15.

(Rupees in crores)

	First plan	Second plan	Third plan	1966-69 Annual plans	Fourth plan
Centre	1.60	8.49	12.84	7.76	65.71
States	—	4.95	5.63	3.20	9.67
Union Territories	—	—	0.93	0.60	1.43
Total	1.60	13.44	19.40	11.56	76.81

The Fifth Plan outlay on social welfare programmes under major heads for the centre and centrally sponsored programmes for states and union territories is given below :

(Rupees in crores)

Head	Outlay
<i>Centre</i>	
Family and child welfare	3.20
Integrated child development services	140.00
Services for children in need of care/protection	5.00
Functional literacy	8.00
Condensed courses of education for employment and vocational training of adult women	4.00
Social-Economic programmes	4.00
Hostels for working women	4.00
National institutes for the handicapped	5.00
Scholarships, research, training, employment grant- in-aid to voluntary organisations	5.35
Integrated education for the handicapped	1.50
Employment service for the handicapped	0.50
National Institute of Social Defence	0.25
National Institute of Public Co-operation and Child Development	0.65
Social work, education and training	6.70
Planning, research, evaluation and monitoring	0.50
Grant-in-aid to voluntary organisations by Central Social Welfare Board and strengthening its field organisation	8.00
Grant-in-aid to voluntary organisations	3.50
Educational Work for prohibition	0.20
Total (Centre and centrally sponsored)	200.00
<i>States and Union Territories</i>	30.72
Grand Total	230.72 (tentative)

## NEW CHALLENGES

Most of the problems with which public administration is faced to-day are likely to become more acute during the coming decades. If the present trend in the growth of population continues and the family planning programme does not achieve the desired success, the coming decades will present serious challenges for public administration on several fronts. The most important of them may be mentioned as :

- (1) Provision of basic necessities—food, clothing and shelter.
- (2) Expansion of education, health and other social services.
- (3) Maintenance of law and order; in this sphere the situation is likely to be aggravated by so many other factors, such as great increase in the urban population, growing discontent and indiscipline among the students, labour unrest, party rivalries, tremendous increase in economic hardships on account of rising prices, etc.
- (4) Growing unemployment, particularly among the educated people.
- (5) Growth of corruption and inefficiency in public administration in spite of all efforts in the direction of administrative reforms.
- (6) Burden of public administration on the people is likely to become heavier.
- (7) The lag in the application of the growing knowledge of science and technology.

The following problems of the present administrative system make our task in meeting the above challenges more difficult :

- (a) In our system there is a great reliance on boards and committees. Consequently our programmes usually get bogged down in meetings and considerations at various levels.
- (b) In spite of our best efforts to reform administration, we still allow illogical assignment of work divisions and also perpetuate a system which seems as though it is designed to provide jobs rather than manage effectively.
- (c) There is a tendency to achieve consensus in decisions or go for collegial decision-making, a necessary consequence of which is that there is no fixation of responsibility.
- (d) The system is more 'control oriented' than 'action oriented', with artificial distinction between those in government and not in government.
- (e) Public personnel administration operates as a 'closed system', giving monopoly to a few especially for policy making and programme administration.

To sum up, the coming decades will require an administration which can cope with developmental and other challenges in an atmosphere of turbulence and relative uncertainty, adapt itself adequately to the requirements of environmental change and influence

it in some measure so that the accomplishment of numerous tasks of development and nation-building may be facilitated. Administration in the new decades will become more inter-disciplinary in scope and specialised in content; it will need an increasing integration of several inputs and improved team work. It will need to develop organisational competence and specialised skills of diverse types, modernise its methods of work and mobilise progressively all sections of the community in nation-building activity. It will have to be infused with vitality and speed, high dedication to public purpose and social justice, resoluteness in attaining programme goals and a heightened sensitivity to the political process.

## CHAPTER IV

# ORGANISATION OF THE CENTRAL GOVERNMENT

At the time of attainment of independence in August 1947, there were the following 18 departments under the Government of India, which were redesignated as Ministries on 29 August 1947 :

- |  |                                  |
|--|----------------------------------|
| 1. External Affairs and Commonwealth Relations | 10. Transport                    |
| 2. Defence                                     | 11. Communication                |
| 3. Finance                                     | 12. Labour                       |
| 4. Home  | 13. Agriculture                  |
| 5. States                                      | 14. Food                         |
| 6. Legislative (Law)                           | 15. Education                    |
| 7. Commerce                                    | 16. Health                       |
| 8. Industries                                  | 17. Information and Broadcasting |
| 9. Railways                                    | 18. Works, Mines and Power.      |

## 1. GOPALASWAMI AYYANGAR REPORT

The Central Government asked N. Gopalaswami Ayyangar, the Minister without portfolio, in 1949 to make recommendations for the re-organisation of the machinery of government. He submitted his report, entitled 'Report on Reorganisation of the Machinery of Government' in the same year. The report highlighted the need for organisational and procedural changes in the existing set-up of the machinery of government, because there was 'insufficient co-ordination in the framing of policies and plans and inadequate speed and efficiency in their execution.' The report made a distinction between the general framework of the government machinery and its internal structure. The main changes involved in the basic plan of reorganisation may be grouped as follows :

(i) The Central Secretariat should be divided into 37 primary units of organisation consisting of 28 departments, 8 central administrative offices and a cabinet secretariat. The 28 departments should be accommodated in 20 ministries. The ministry of finance should consist of 4 departments; the ministry of home affairs should consist of 3 departments; the ministries of external affairs and agriculture should each consist of 2 departments; and other ministries



should consist each of one department only.

(ii) A distinction should be made between a department as an organisational unit and ministry as an organisational unit. While a department is identified with a secretary's charge, a ministry is identified with a minister's charge.

(iii) The 13 ministries responsible for economic and social service should be grouped in (a) Bureau of Natural Resources and Agriculture, (b) Bureau of Industry and Commerce, (c) Bureau of Transport and Communications, and (d) Bureau of Labour and Social Services.

(iv) The cabinet organisation should be strengthened by setting up on a permanent basis certain standing committees in addition to ad hoc committees set up from time to time.

He suggested four standing committees of the cabinet, namely, the defence committee, the economic committee, the administrative organisation committee and the parliamentary and legal affairs committee. He also suggested that the cabinet secretariat should be strengthened by a well-organised economic wing. Further, he recommended the setting up of an 'Organization and Methods Division,' which was to be made responsible for continued maintenance of efficiency in the organisation of public establishments and public services and methods of transaction of public business. This division was to be located in the home (services) department of the ministry of home affairs.

A special position was accorded to the cabinet secretary, who was to be regarded by the civil service as an adviser and conscience keeper and in whom the civil servants could have confidence. The cabinet secretary was also made the chairman of the committee of secretaries dealing with economic matters. Thus he was to advise and assist the economic committee as well as the central establishment board. This recommendation was accepted by the government; but much more important recommendation on the grouping of economic ministries into bureaus was turned down by the Government. The government did not also accept the recommendation seeking a limit on the number of ministries in the central government, as it felt that the prime minister should have an unfettered freedom in determining the size of the cabinet.

As regards the organisation of the Secretariat, the basic principle of Ayyangar's recommendations was to make each department the sole and undiluted charge of its secretary. The interposition of a separate grade of a joint or additional secretary was regarded as a defective arrangement; for it tended to blur the line of command from above and to interrupt the line of responsibility from below. Thus Ayyangar recommended a clear uninterrupted hierarchy with the secretary as head of a department; the deputy secretary as head of a division; the under-secretary as head of a branch, followed

by the section officer and assistant. Naturally, the department of the secretary was not to be unwieldy. It was to consist of three deputy secretaries, representing the upper limit of the manageable charge of a single secretary; but this meant a considerable increase in the number of departments. He actually recommended that the Central Secretariat should be divided in 37 primary units, 28 departments, 8 central administrative offices and a cabinet secretariat, in addition to 20 ministries controlling the entire machinery of Government, each ministry having three categories of ministers—a Cabinet Minister, a Minister of State and a Deputy Minister. Financial and other considerations, however, stood in the way, and although the Government decided to appoint additional secretaries only in exceptional cases, their number not only increased in practice but a special secretary came to be interposed between a secretary and a joint secretary.

## II. GENERAL ORGANISATION

The Central Government is organised on the departmental pattern. The literal meaning of the word 'Department' is a part or portion of a larger whole, for example, teaching departments in a college and territorial divisions, known as departments (provinces) in France. But in the technical phraseology of Public Administration, departments are the biggest blocks of compartments in which the administrative branch as a whole is divided just under the chief executive. Thus, in USA under the President there are at present twelve major departments, each of which is headed by a member of the presidential cabinet. In India and the United Kingdom, too, governmental administration has been organised on the departmental plan. But an important difference between UK and India, on the one hand, and the USA on the other, lies in the use of the term 'ministry'.

The word 'ministry' is used collectively for the political executive, called the Council of Ministers in the Constitution of India. But in respect of administration, ministry indicates the entire charge of a minister, *i.e.* a ministry is headed by a minister.<sup>1</sup> Rules of business have been framed under article 77 (3) of the Constitution to regulate the allocation of the business of Government among Ministers and ensure its more convenient transaction. The allocation is made by the President on the advice of the Prime Minister by specifying the items of business allotted to each Ministry and by assigning a

<sup>1</sup> The word 'ministry' rather confusing and ambiguous was first adopted in 1947, when it was decided to substitute ministry for department. Although a ministry stands for the minister's charge, its administrative component is not uniformly defined. A ministry may not have a department; and it may have one or more than one department in which it is formally divided.

Ministry or part of a Ministry or more than one Ministry to the charge of a Minister. The Ministries/Departments, though having almost the same type of relationship with the Chief Executive, differ very greatly in size, composition and the nature of functions they perform.

The business of the Government of India is carried out in the Ministries and Departments, their Attached and Subordinate Offices, public undertakings, and other organisations under them. A ministry or department represents the largest sub-division or cross-section of its administrative structure, adopted for the satisfactory discharge of its functions and responsibilities. The Ministries and Departments are responsible for the subjects allocated to them by rules made by the President under Article 77 (3). They are responsible for the formulation of policies within their jurisdiction as well as for the execution and review of those policies, within the framework of the broad principles embodied in the Constitution and specific Acts passed by the Parliament.

The Ministries and Departments have under them a number of Attached and Subordinate offices. The Attached offices are responsible for providing executive direction required in the implementation of the policies laid down by the Ministry to which they are attached. The Subordinate offices function more or less as field establishments, responsible for the detailed execution of the decisions of the Government. They generally function under the direction of an Attached Office, or in cases where the volume of executive direction involved is not considerable, directly under a Ministry.

A large number of public undertakings have also been established by the Government of India since 1947. These undertakings function under the administrative control of the concerned Ministry, which is responsible for the following tasks in respect of these undertakings :

(1) Appointment/resignation of chairman/board members/financial adviser, or chief finance and accounts officer on the recommendation of the Board of Directors, and of auditor on the advice of the Comptroller and Auditor-General;

(2) Higher staff appointment *i.e.* where the maximum of the pay-scale of the post exceeds Rs. 2,250;

(3) Rules of the Company governing the conditions of service of the employees, provident fund and other rules;

(4) Annual programme of the public undertaking as reflected by its revenue and capital budget estimates;

(5) Proposals of the public undertaking regarding : (i) Assistance from other Ministries when direct contacts fail to produce results; (ii) Raising loans exceeding specified limits; (iii) Higher foreign exchange allocation; (iv) Intervention in labour disputes; (v) Negotiations with foreign countries; (vi) Contracts involving expenditure exceeding specified limits; participation in negotiations for entering into global

contracts; (vii) Pricing of products; and (viii) Creation of reserve and special funds.

Normally, a Secretary to the Government of India is the administrative head of the Ministry, and he is the principal adviser of the Minister on all matters of policy and administration within the Ministry. The Secretary is not only responsible for the organisation and efficiency of the Ministry, but also for the advice given to the Minister in respect of matters falling within the range of his duties. Where the volume of work in a ministry exceeds the manageable charge of a Secretary, one or more wings are established with a joint secretary in charge of each wing. In such cases, a joint secretary is vested with the maximum measure of independent functioning and responsibility, subject to the general control of the secretary. In some ministries special secretaries have also been appointed to take up independent charge of a distinct subject. There also exist in some ministries, the posts of additional secretaries. An additional secretary is generally a senior joint secretary and as such is given charge of an important wing in the ministry.

For the efficient and expeditious disposal of business allotted to it, the ministry is divided into divisions, branches and sections. A section, under the charge of a section officer, consists of a certain number of clerical staff, e. g. assistants, upper and lower division clerks, typists, etc. A branch, which is normally under an under-secretary, consists of two sections. Two branches usually constitute a division, which is placed under the charge of a deputy secretary. In certain matters, deputy or under-secretaries may transact business direct with the minister, but proposals involving important policy decisions are always routed through the joint secretary or the secretary, or both.

The hierarchical arrangements within an executive department fall generally into three categories, namely, top management, middle management, and the lower levels. Although there cannot be any hard and fast line of demarcation between any two of them, yet the levels of work and responsibility are well marked. The top management is generally manned by the members of the extinguishing Indian Civil Service, the All India Services and the Central Services; middle management is manned by members of the Central Secretariat services and the lower levels by ministerial services. The top echelons consist of political as well as administrative personnel. The political side comprises of cabinet ministers, ministers of state and deputy ministers; and the administrative side includes secretaries, joint secretaries and deputy secretaries. The top echelons are primarily concerned with matters of policy, direction and control. The final responsibility for the formulation of policies of a department rests with the political head; but the services render valuable assistance in its formulation. The lower levels of the services collect information

and data, the middle levels sift and analyse it in relation to the issues involved and the top administrative officers assist the political head in formulating the policy and ensuring its application.

### III. REORGANISATION OF MINISTRIES AND DEPARTMENTS

The first major re-organisation of ministries took place in December 1950, when a number of existing ministries, namely, Commerce, Industry and Supply, Works, Mines and Power etc., were reorganised by a functional re-arrangement with a view to better administrative efficiency and a measure of economy. Two new ministries of Production and of Irrigation and Power were created in June 1952, the former took charge of the State enterprises; but when a new ministry of Iron and Steel was created in 1955, the State steel projects were placed in its charge. The Ministry of Irrigation and Power was made responsible for the development of irrigation and power, *i. e.* of Central River Valley Projects, Water and Power Commission, etc. In 1957, the two ministries of Food and Agriculture were re-amalgamated though organised in two separate departments under a single Cabinet Minister. With the formation of the new Government in April 1957, the Ministry of Production was abolished and its work was distributed amongst the Ministries of Commerce and Industry, Transport and Communications, and Steel, Mines and Fuel. A new Ministry of Transport and Communications was formed by the integration of these two independent ministries formerly.

A Department of Administrative Reforms was set up on 25 March 1964, in the Ministry of Home Affairs, to deal with the problems of reform, reorganisation and modernisation of administration at all levels so as to make it an efficient and sensitive instrument for carrying out the task of economic development and social welfare and for achieving the general social objectives which the country set before it, and the need for the redress of grievances of citizens arising from unsound procedures, wrong though not necessarily dishonest exercise of discretion, delays, lack of courtesy and consideration in official dealings and the like. The O and M Division so far located in the Department of Cabinet Affairs was transferred to the Ministry of Home Affairs to form part of the new Department.

Consequent on the formation of the new Council of Ministers, headed by Mrs. Indira Gandhi, the following amendments were made in the Government of India (Allocation of Business) Rules with effect from 24 January 1966 :

(1) The Ministries of Civil Aviation and Transport were merged into a single Ministry of Transport and Aviation, with two Departments, namely the Department of Aviation and the Depart-

ment of Transport, Shipping and Tourism.

(2) The Ministries of Food and Agriculture and Community Development and Cooperation were combined in a single Ministry of Food, Agriculture, Community Development and Cooperation; it has four Departments viz. the Department of Food, the Department of Agriculture, the Department of Community Development and the Department of Cooperation.

(3) The Department of Company Affairs and Insurance in the Ministry of Finance was abolished and its subjects relating to Insurance allotted to the Department of Revenue in that ministry, thereby redesignated as the Department of Revenue and Insurance. The subjects relating to Company Affairs were allocated to the Ministry of Law under a separate Department known as the Department of Company Affairs.

(4) The Ministry of Health was redesignated as the Ministry of Health and Family Planning, with two Departments, viz. the Department of Health, and the Department of Family Planning.

(5) The Ministry of Industry and Supply was bifurcated into two ministries, namely the Ministry of Industry and the Ministry of Supply and Technical Department.

(6) The Ministries of Rehabilitation and Labour and Employment were amalgamated. The new Ministry has two Departments : the Department of Labour and Employment and the Department of Rehabilitation.

(7) The two Departments under the Ministry of Steel and Mines, the Department of Iron and Steel, and the Department of Mines and Metals were converted into two separate Ministries, namely the Ministry of Iron and Steel and the Ministry of Mines and Metals.

(8) The subjects relating to Village Industries including Khadi and handicrafts and Ambar Charkha, under the Department of Social Security were transferred to the Ministry of Commerce, and its subject 'Bal Bhavan—Children's Museum' transferred to the Ministry of Education. The Department of Social Security, with the remaining subjects, was redesignated as the Department of Social Welfare.

(9) The subjects relating to Town Planning Organisation, Delhi Development Authority, Central, Regional and Urban Planning Organisation, Improvement Trust, Master Plan of Delhi and Development of land declared as 'development areas' under the Delhi Development Act, formerly under the Ministry of Health, were transferred to the Ministry of Works and Housing, which was redesignated as the Ministry of Works, Housing and Urban Development.

(10) The Bureau of Public Enterprises under the Department of Coordination in the Ministry of Finance was transferred to the Department of Cabinet Affairs in the Cabinet Secretariat.<sup>1</sup>

<sup>1</sup> I. I. P. A., *News-letter*, February 1966.

IN 1971

The business of the Government of India in 1971 was allocated to the following Ministries and Departments :

1. Ministry of External Affairs.
2. Ministry of Defence :
  - (a) Department of Defence Production, and
  - (b) Department of Defence Supplies,
3. Ministry of Finance :
  - (a) Department of Economic Affairs,
  - (b) Department of Expenditure, and
  - (c) Department of Revenue and Insurance,
4. Ministry of Home Affairs :
  - (a) Department of Administrative Reforms.
5. Ministry of Law :
  - (a) Department of Legal Affairs, and
  - (b) Legislative Department.
6. Ministry of Foreign Trade and Supply :
  - (a) Department of Foreign Trade, and
  - (b) Department of Supply.
7. Ministry of Industrial Development, Internal Trade and Company Affairs :
  - (a) Department of Industrial Development,
  - (b) Department of Internal Trade, and
  - (c) Department of Company Affairs.
8. Ministry of Steel and Heavy Engineering.
9. Ministry of Petroleum, Chemicals, Mines and Metals :
  - (a) Department of Petroleum,
  - (b) Department of Chemicals, and
  - (c) Department of Mines and Metals.
10. Ministry of Railways (Railway Board).
11. Ministry of Shipping and Transport.
12. Ministry of Tourism and Civil Aviation.
13. Ministry of Labour and Rehabilitation :
  - (a) Department of Labour and Employment, and
  - (b) Department of Rehabilitation.
14. Ministry of Food, Agriculture, Community Development and Cooperation :
  - (a) Department of Agriculture,
  - (b) Department of Food.
  - (c) Department of Community Development, and
  - (d) Department of Cooperation.
15. Ministry of Irrigation and Power.
16. Ministry of Education.

17. Ministry of Health and Family Planning, Works, Housing and Urban Development :

- (a) Department of Health,
- (b) Department of Family Planning, and
- (c) Department of Works, Housing and Urban Development.

18. Ministry of Information and Broadcasting.

19. Department of Parliamentary Affairs.

20. Department of Atomic Energy.

21. Department of Communications.

22. Department of Social Welfare.

In June 1971, the Union Council of Ministers was reorganised. After that it consisted of 17 Ministers of Cabinet rank, the distribution of portfolios was as follows : (1) The Prime Minister, Minister of Atomic Energy, Home Affairs and Planning; (2) Food and Agriculture; (3) Steel and Heavy Engineering; (4) Finance; (5) Law and Social Welfare; (6) Railways; (7) Defence; (8) Parliamentary Affairs and Shipping and Transport; (9) Education and Youth Service; (10) Labour and Rehabilitation; (11) Petroleum and Chemicals and Mines and Metals; (12) Health and Family Planning and Works, Housing and Urban Development; (13) Industrial Development and Internal Trade; (14) Tourism and Civil Aviation; (15) External Affairs; and (16) Information and Broadcasting and Communications. In addition to these Cabinet Ministers, there were 20 Ministers of State and 16 Deputy Ministers.

In February 1973 the following changes took place in the formation of some Ministries and Departments. The new Ministry of Commerce was allotted subjects formerly handled by the Ministry of Foreign Trade, excluding Coir industry, Sericulture, and the National Textile Corporation, which were placed under the Ministry of Industrial Development. In addition, the Department of Internal Trade of the Ministry of Industrial Development was shifted to the Ministry of Commerce. These and many other changes were effected, according to the Allocation of Business Order issued on 7 February. Another new Ministry (of Heavy Industries) was entrusted with the following items : (i) Manufacture of Heavy Engineering Equipment for all industries; (ii) Heavy Electrical Engineering Industries; (iii) Machinery Industries including Machine Tool and Steel Manufactures; (iv) Auto Industries, including Tractor, Earth Moving Equipment and Diesel Engines; (v) Heavy Engineering Corporation, Ranchi; (vi) Mining and Allied Machinery Corporation, Durgapur; (vii) Triveni Structurals, Allahabad; (viii) Tungabhadra Steel Products Limited; (ix) Bharat Heavy Plates and Vessels; and (x) Engineering Projects (India) Limited. Ministry of Industrial Development remained in charge of all items of work excluding those transferred to the Ministry of Commerce and the Ministry of Heavy Industries as



indicated above.

The other changes were (i) The Department of Statistics formed part of the Ministry of Planning; (ii) The Directorate of Manpower was transferred to the Planning Commission; (iii) Matters relating to the creation of a pool for temporary placement of Indian Scientists and Technologists returning from abroad were transferred to the Department of Science and Technologists; (iv) The Department of Administrative Reforms was transferred to the Department of Personnel, which was renamed Department of Personnel and Administrative Reforms; (v) Matters relating to Scheduled Caste, Scheduled Tribes, denotified nomadic and semi-nomadic tribes and other backward classes were transferred to the Ministry of Home Affairs, where they came to be dealt with in the National Integration Division; (vi) Matters relating to local self-government, water supply, and sewage and drainage were transferred to the Ministry of Works and Housing, which deals with urban development.<sup>1</sup> We now give the organisation of three important ministries of the Government of India, as follows.<sup>2</sup>

#### IV. THE MINISTRY OF HOME AFFAIRS

Upto July 1970 the Ministry was mainly concerned with these two broad groups of subjects : (1) Public Services, and (2) Public Security. Early in August 1970, the subject of Public Services, under the name of 'Department of Personnel' was transferred to the Cabinet Secretariat. The Department deals with 43 items grouped under 11 heads. Some of the important items dealt with in the Department include : recruitment, promotion, morale of the services, administrative reforms, training, service conditions, vigilance and discipline, etc. With the transfer of this department to the Cabinet secretariat, the size as well as the importance of the Home Ministry shrunk considerably. At present the Ministry is responsible for the administration of Union Territories, matter relating to the appointment and conditions of service of the Chief Justices and other Judges of the Supreme and High Courts, Bills passed by State Legislatures and reserved for the President's assent and the residuary work pertaining to erstwhile princely states. The following are some of the important subjects allocated to the Ministry :

*A. Union Subjects.* Formation of new States, alteration of areas and boundaries of States; Issue of notification of election of the President and the Vice-President; Grant of pardons etc.; Issue of notification of appointment and resignation of the Prime Minister, and other Ministers, Appointment of Lieut. Governors; Chief Commi-

<sup>1</sup> I. I. P. A., *News-letter*, February 1973.

<sup>2</sup> The details of organisation are based on 'Organisation of the Government of India', 1971 edition.

ssioners; Union Public Service Commission; Central Bureau of Investigation; Central Vigilance Commission; Concession to political sufferers; Central services rules; Inter-State migration; etc.

*B. Concurrent Subjects.* Criminal law and procedures, Newspapers, books and printing presses.

*C. Additional subjects with regard to Union Territories.* Public order, Prisons, Courts, Police.

*D. Department of Administrative Reforms.* Administrative reforms : Organisation and Methods.

In the field of Public Security, the Ministry is responsible for the maintenance of law and order in centrally administered areas. It also advises the States from time to time on developments in problems of public security of all-India interest.

The Ministry is headed by a Cabinet Minister, who is assisted by two Ministers of State and a Deputy Minister. Its Secretariat includes : 2 Secretaries, 1 Additional Secretary, 11 Joint Secretaries, 1 Officer on Special Duty and Director of Manpower, 1 Establishment Officer and ex-officio Joint Secretary, and about 30 Deputy Secretaries, Special Assistants, Under-Secretaries and a large number of Section Officers.

The Ministry has under it four Attached Offices : (1) Central Intelligence Bureau, (2) Commissioner for Scheduled Castes and Scheduled Tribes, (3) Office of the Registrar General, and (4) Delhi Special Police Establishment. Some of the main subordinate offices of the Ministry are : (i) Directorate of Co-ordination (Police Wireless), (ii) Secretariat Training School, (iii) Central Police Training College, (iv) National Fire Service College (Rampur), and (v) Central Reserve Police. In addition to these, three of the important Advisory Bodies functioning under the Ministry are : (1) Central Secretariat Selection Boards, (2) Central Establishment Board, and (3) Central Advisory Board for Harijan Welfare.

An idea of the vastness of its work may be had from the following 26 Divisions, in which its work is organised : (1) Administration and O and M Division, (2) Administrative Vigilance Division, (3) All-India Services Division, (4) Central Secretariat Services Division, (5) Establishment Division, (6) Establishment Officer's Division, (7) Emergency Relief Division, (8) Foreigners and Citizenship Division, (9) Judicial Division, (10) Police Division, (11) Political Division, (12) States Reorganisation Division, (13) States Reorganisation (Service) Division, (14) Union Territories Division (Administration and Services, etc.), (15) Union Territories (Legislative) Division, (16) Official Language Division, (17) Kashmir Division, (18) Welfare Division, (19) Finance and Accounts Division, (20) Manpower Directorate, (21) Public Division, (22) Public Grievance Division, (23) Training Division, (24) Joint Consultation and Compulsory Arbitration Division, (25) Secretariat Security Organisation

Division, and (26) Research and Policy Division. A brief account of some of its important components is given here.

#### DEPARTMENT OF ADMINISTRATIVE REFORMS

It was set up in the Ministry of Home Affairs in March 1964, to deal with the problem of reform, reorganisation and modernisation of administration at all levels so as to make it an efficient instrument for carrying out the tasks of economic development and social welfare. For this purpose the Department examines the organisation and procedures of various organisations; and it has already completed the examination of the organisation and structure, and methods of work and procedure of the offices of the Chief Controller of Imports and Exports, Director-General of Technical Development, Director-General of Supplies and Disposal and the Central Public Works Department. The Department is, therefore, responsible for assisting the Government in effective implementation of measures for improvement of administration. The Department also serviced some of the study teams of the Administrative Reforms Commission and processed some of their reports. The Organisation and Methods Division, which was set up in 1954 in the Cabinet secretariat, now forms part of the Department of Administrative Reforms.

#### THE CENTRAL BUREAU OF INVESTIGATION (C.B.I.)

It provides intelligence to Government on matters affecting the security of the State, and advises Government on security measures. It also exercises overall control over the Central Finger Print Bureau, Central Detective Training School and Central Forensic Science Laboratory. This Bureau functions under a Director, who is assisted by regional officers.

#### CENTRAL VIGILANCE COMMISSION

The Committee on Prevention of Corruption, presided over by K. Santhanam, recommended the setting up of a Central Vigilance Commission, to deal with the problem of corruption in public services. The Government of India agreed to the recommendation of the Committee and the Commission was set up in February 1964. The Commission has been assigned extensive functions designed to ensure that complaints of corruption or lack of integrity on the part of government servants are given prompt and effective attention, and that the offenders are brought to book without fear or favour.<sup>1</sup>

#### THE CENTRAL ESTABLISHMENT BOARD

It was set up by the Government of India, to make recommendations to the Government for the selection of officers for the

<sup>1</sup> Details have been discussed in a later Chapter.

Secretariat posts of and above the rank of Under-Secretary (except posts of Secretary), and for certain other non-Secretariat posts, after considering the merits and claims of all available officers in the field of choice for any particular vacancy. The Board is, however, not concerned with statutory appointments made by the President or appointments of Ambassadors, Heads of Indian Missions abroad and other high dignitaries which are under the aegis of the Ministry of External Affairs. It consists of five Members of whom two are chosen from the Secretariat of the Ministries primarily concerned with economic administration and the remaining three from the Secretariat of other Ministries. The Cabinet Secretary is the ex-Officio Chairman of the Board. The Establishment Officer to the Government of India acts as its Secretary.

## V. THE MINISTRY OF EXTERNAL AFFAIRS

It is responsible for work connected with these subjects : (i) Foreign Affairs; (ii) Diplomatic and consular representation; (iii) UNO; (iv) Treaties and agreements with foreign countries; (v) Emigration from India; and (vi) the administration of such laws as (a) The Indian Emigration Act, 1932; (b) The Indian Merchant Shipping Act, etc.

The Ministry consists of a Secretariat and four Subordinate Offices, but there is no attached office under the Ministry. However, there are a number of Diplomatic and Consular Offices situated practically all over the world. For some years in the beginning the Prime Minister himself held the portfolio of External Affairs and was assisted by a Deputy Minister and two Parliamentary Secretaries. But for many years it is headed by a separate Minister of cabinet rank, who is assisted by a Deputy Minister. Foreign Secretary is at present the administrative head of the Ministry, the post of the Secretary-General having been abolished in 1964. There are two Additional Secretaries, 12 Joint Secretaries, 12 Directors, 21 Deputy Secretaries, 86 Under-Secretaries and 7 Information Officers. These Officers supervise the basic organisation of the Ministry consisting of 21 Divisions, which can be broadly classified as : (a) administrative, (b) functional, and (c) territorial. Each Division is headed by a Joint Secretary or a Director depending on its size and importance.

There are ten Territorial Divisions : (i) Africa Division, (ii) America Division, (iii) East Asia Division, (iv) Europe Division, (v) Kashmir Unit, (vi) Northern Division, (vii) Pakistan Division, (viii) South Asia Division, (ix) UN and Conference Division, and (x) West Asia and North Africa Division.

The number of Functional Divisions is eight : (1) Coordination Division, (2) Economic Division, (3) External Publicity Division, (4) Historical Division, (5) Legal and Treaties Division, (6) Passport, Emigration and Consular Division, (7) Policy, Planning and Review

Division, (8) Regional Passport Office.

There are only three Administrative Divisions: (1) Administrative Division, (2) Foreign Service Inspectorate, (3) Protocol Division. A brief account of its important Divisions and other offices is as follows :

#### THE TERRITORIAL DIVISIONS

These divisions deal exclusively with India's relations with foreign countries. Each division covers a number of countries grouped on a geographical or territorial basis. The Protocol Division is responsible for ceremonial matters, the reception of foreign envoys and other dignitaries, the preparation of credentials and commissions concerning the appointment of Indian diplomatic and consular representatives, formal arrangements for the signing of treaties, agreements etc. United Nations and Conference Division is responsible for matters relating to the United Nations as also for international conferences held under the auspices of the United Nations and its specialised agencies.

Passport, Emigration and Consular Division deals with emigration, passport, visa and consular matters. Legal and Treaties Division is concerned with international legal problems arising in the Ministry, and those relating to the international organisations in which India may be interested, such as the International Court of Justice, the Administrative Tribunal of the United Nations, etc. Ratification of treaties and arrangements to which India is a party and their publication, are also a duty of this division.

External Publicity Division is responsible for matters relating to Indian publicity abroad; and it is under the charge of the Joint Secretary (External Publicity), who is assisted by two Directors, one Deputy Director and several information officers, assistant information officers, and other staff. Though this division is not directly responsible for the promotion of cultural exchanges with the foreign countries, it renders assistance to the diplomatic and consular offices in organising exchange of goodwill missions, art exhibitions, music and dance troupes, etc. It also assists in India's participation in international fairs and festivals.

The Historical Division is responsible for the preparation of research papers and the maintenance of the Ministry's library. The Administration Division deals with administration of personnel, establishment, and services and supplies relating to the Ministry, as a whole and to the large number of Indian missions and posts abroad. Economic Division is mainly concerned with technical and economic co-operation programmes between India and other countries. Policy Planning and Review Division is responsible for evaluating the current foreign policies in the light of changing circumstances and formulating recommendations for future policies. Personnel, Security,

Communications and Civil Defence Division looks after the problems of communications, security, etc. in the Ministry and of Indian missions abroad.

In addition to the above divisions, there exists an Inspectorate in the Ministry for making an overall assessment of the working and effectiveness of the Indian Missions abroad and for reviewing the scales of allowances and amenities provided to the staff in these missions. One of the Additional Secretaries in the Ministry heads the Inspectorate.

The Central Passport Organisation and the Emigration Organisation, which had functioned as separate bodies till 1958, were amalgamated in January 1959, to form the Central Passport and Emigration Organisation. The Organisation has five regional offices located at Delhi, Lucknow, Calcutta, Madras and Bombay. The Regional Office at Lucknow deals with passport work only and the others are in charge of emigration work in addition to the passport work. The migration work, under the provisions of the Emigration Act of 1932, is attended to by the Protectors of Emigrants notified for the purpose. Thirteen Protectors of Emigrants have been appointed for various emigration posts. The Central Organisation ensures that the problems relating to emigration are dealt with on a uniform and all-India basis. External Affairs Hostel, New Delhi established in 1965, is intended to provide transit accommodation to officers and staff of the Ministry of External Affairs till they are able to arrange alternative accommodation.

## VI. THE MINISTRY OF FINANCE

Until 1939, the Finance Department was organised in three wings—the Ordinary Branch, in control of Civil Expenditure; the Military Finance Department, in control of Defence Expenditure, and the Central Board of Revenue, administering Income Tax, Customs and Central Excise Departments. In addition, there was a Financial Commissioner for Railways as a part of the Railway Board, but jointly answerable to the Finance and Railway Members. He exercised the full powers of the Finance Department and had the right of direct access to the Finance Member. After the transfer of power, the Finance Minister was assisted by a Principal Secretary, with functions of co-ordination. This post was abolished in October 1947; and a Minister of State was appointed in early 1951 and a Deputy Minister added to the Ministry in mid-1952. Shortly thereafter, the Minister of State was replaced by a second Deputy Minister. At the end of 1954 both these Deputy Ministers were raised to the rank of Ministers of State, one being placed in charge of revenue and civil expenditure and the other in charge of revenue and defence

□ *Public Administration in India*/6

expenditure. Later, in 1956, a Deputy Minister was also appointed to strengthen the ministerial rank. But when the Cabinet was reconstituted in 1957, both the Ministers of State were dropped and only a Deputy Minister was retained. At present the Ministry of Finance consists of three departments : (1) the Department of Revenue and Insurance, (2) the Department of Expenditure, and (3) the Department of Economic affairs. A brief account of the organisation of each of the three departments is as follows :

#### DEPARTMENT OF REVENUE AND INSURANCE

It is responsible for the following functions : All matters relating to Central Board of Revenue; stamp duties on bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, transfer of shares, debentures, proxies and receipts; supply and distribution of all kinds of stamps; all questions relating to income-tax; administration of excise in the Union Territories; international agreements relating to dangerous drugs and their implementation; all matters relating to customs (sea and land); all matters relating to central excise and sales tax enforcement work; policy relating to general insurance, administration of the Insurance Act, 1938; policy relating to life insurance; Office of the Controller of Insurance and Subordinate Organisations : (a) Income Tax Department, (b) Customs Department, (c) Central Excise Department, and (d) Narcotics Department.

The Department also administers the direct and indirect taxes levied by the Government of India, through the two statutory boards, viz. the Central Board of Direct Taxes and the Central Board of Excise and Customs. Each of these two boards consists of a Chairman and three members. The Chairman of the board holds ex-officio status of Additional Secretary and other members that of Ex-officio Joint Secretaries to the Government of India. The administration of the Gold Control Rules, 1963 is the responsibility of the Gold Control Administrator, who is also Joint Secretary in the Department. The other two units in the Department are the Tax Credit (Export) Division and the Insurance Division.

The Department has under it seven attached offices and a large number of subordinate offices. In addition, there is one public undertaking under the administrative control of the Department. It has a large secretariat headed by a Secretary. There are seven directorates under the Department : (1) Directorate of Insurance, Simla; (2) Enforcement Directorate, New Delhi; (3) Directorate of Inspection (Research, Statistics and Publication), New Delhi; (4) Directorate of Inspection (Income-Tax Inspection Wing), New Delhi; (5) Directorate of Inspection (Income-Tax Investigation Wing), New Delhi; (6) Directorate of Inspection (Customs and Central Excise), New Delhi; and (7) Directorate of Revenue

Intelligence, New Delhi.

The Subordinate Offices of the Department are as follows : (1) Offices of the Collectors of Customs, Bombay, Calcutta, Madras, Visakhapatnam and Kandla; (2) Office of the Collectors of Central Excise, Bombay, Calcutta, Madras, Bangalore, New Delhi, Shillong, Hyderabad, Allahabad, Baroda, Patna, Poona, Nagpur, Cochin, Kanpur, Panjim and Pondicherry; (3) Income Tax Department; (4) Statistics and Intelligence Branch (Central Excise), New Delhi; (5) Central Revenue Control Laboratory, New Delhi; (6) Directorate of Emergency Risks Insurance Scheme, New Delhi. In addition, there is one very important public undertaking, the Life Insurance Corporation, Bombay.

The Department of Expenditure is responsible for the following functions : (1) Financial rules and regulations and delegation of financial powers; (2) Financial sanctions relating to all ministries and offices of the Government of India; (3) Review of the staffing of government undertakings on Cost Accounts matters and attending to Cost Investigation work on their behalf; (4) Advice to Ministers and Government undertakings on Cost Accounts matters and attending to Cost Investigation work on their behalf; (5) Expenditure proposals relating to the Delhi Administration; (6) Indian Audit and Accounts Department; (7) Defence Accounts Department; (8) Statutory grants to States provided for in the Constitution and ad hoc grants and loans to them for financing their development schemes and other approved purposes; (9) Local Taxation; (10) State Finance; (11) Capital Budget; (12) Planning and Development Finance; (13) Scrutiny of Central and State Legislation having financial and economic implications; and (14) Bureau of Public Enterprises including Industrial Management Pool.

The Department of Expenditure has no attached or subordinate offices under it. It is divided into the following seven divisions : (1) Establishment Division, (2) Civil Expenditure Division, (3) Bureau of Public Enterprises, (4) Cost Accounts Wing, (5) Plan Finance Division, (6) Staff Inspection Unit, and (7) Defence Expenditure Division. The Bureau of Public Enterprises was set up in March 1955, to provide a central point of reference on important aspects of management of public undertakings. The Bureau also explores for economy in capital cost, and devises steps to increase the profitability and productivity of these undertakings. The Bureau periodically reviews the working of public enterprises and presents its reports to Parliament and other Government agencies. The Bureau also administers the Industrial Management Pool, which was earlier the responsibility of the Ministry of Home Affairs. It is organised in four divisions, viz. Production Division, Construction Division, Finance Division and General Management Division.



## DEPARTMENT OF ECONOMIC AFFAIRS

It is responsible for the following subjects : (1) Administration of the Foreign Exchange Regulations Act, other than enforcement work mentioned under the Department of Revenue; (2) Foreign Exchange Budgeting; (3) Control of the Foreign Exchange Resources including scrutiny of proposals of imports from the foreign exchange point of view; (4) Foreign Investments; (5) Import and Export of gold and silver and foreign aid for economic development; (6) Technical and Economic Assistance received by India; (7) Technical Assistance given by India to the member countries of the Colombo Plan under Technical Cooperation Schemes of the Colombo Plan; (8) All matters relating to the meetings of the Colombo Plan Council and the Consultative Committee of the Plan; (9) Currency and Banking; (10) Investment Policy; (11) Preparation of briefs and submission of material on financial and economic questions relating to India's participation in the United Nations and Allied Organisations; (12) Ways and Means; (13) Preparation of Central Budget, other than Railway Budget including supplementary and excess grants; (14) Borrowing and Floatation of Market Loans by the Central and State Governments; (15) Borrowing of public bodies such as corporations, municipalities, etc.; (16) Administration of the Public Debt Act; and (17) Administration of the Central Treasury Rules.

Of all its divisions, the Budget division is the most important. It is primarily responsible for the preparation of the Central Budget other than the Railway Budget. The Estimates for Defence Services are scrutinised and compiled by the Defence Division, while the estimates for the Posts and Telegraphs Department are compiled by the Director-General, Posts and Telegraphs. The estimates relating to the other Ministries and the Departments of the Government of India are compiled by the Budget Division, with the assistance of the associated finance divisions in the Ministries and Departments. The ultimate responsibility for the preparation of the entire budget and supporting documents vests in the Budget Division. Further, the division is responsible for the following items of work : (a) Preparation of supplementary demands for grants and demand for excess grants; (b) Preparation of the ways and mean estimates, the floating of public loans; (c) Questions pertaining to audit and accounting procedure; (d) Work connected with the fixing of borrowing rate of interest, productivity tests rate etc; and (e) Issuing of standing instructions for maintaining proper control over expenditure during the course of the year.

Another important Division is the Economic Division, which is an advisory wing of the Department of Economic Affairs. The Division is responsible for the following functions : (a) Research into and study of important economic, financial and monetary problems;

(b) Preparation and maintenance of statistics relating to balance of payments, balance of trade, currency and coinage; and (c) Study and analysis of foreign economic and financial reports received from the Indian diplomatic missions and the trade representatives abroad. The Administration Division looks after the administrative matters of the Department of Economic Affairs. The Division also deals with the work relating to the administration of grants to the Indian Institute of Public Administration, the National Council of Applied Economic Research and the Indian Economic Association. Subordinate offices of the Department are (1-3) Indian Government Mints (at Bombay, Calcutta, and Hyderabad); (4) India Security Press, Nasik Road; (5) Silver Refinery, Calcutta; (6) Security Paper Mill, Hoshangabad; (7) Rehabilitation Finance Administration Unit, New Delhi; (8) Kolar Gold Mining Undertakings, Corgaum (Mysore); (9) The Reserve Bank of India, Bombay; (10) The State Bank of India, Bombay; (11) Industrial Finance Corporation, New Delhi; (12) Agricultural Refinance Corporation, Bombay; and (13) Unit Trust of India, Bombay.

Finally, there are two advisory bodies of the Department : First, the National Savings Advisory Committee coordinates and guides the activities of similar advisory committees in the States and assists and advises the Government of India as regards measures necessary to promote national small savings schemes. This Committee is headed by a chairman and consists of 13 non-official members. The National Savings Commissioner acts as its Member-Secretary. The committee also co-opts specialists in different fields, e. g., eminent economists, bankers, sociologists, etc. as members, as and when necessary. Second, the Central Advisory Board for Women's Savings Campaign is responsible for coordinating the activities of similar advisory boards in the States. It also advises the Government of India in spreading the savings movement generally, and the women's savings campaign in particular.

## VII. CRITICISM AND SUGGESTIONS

In a well ordered government, policy formulation and execution are regarded as two separate functions which should be performed by two agencies. When policy and execution are mixed up, both suffer. But partly for historical reasons and partly for those of political expediency, the Centre is tending to bring more executive functions within the ambit of its secretariat responsibilities. India should take a lesson from the Swedish administrative system, the merits of which induced the Fulton Committee in Britain to recommend a 'hiving off' of executive functions by the Central Government. The main feature of the Swedish system of ministries and agencies is a small high-powered and youthful secretariat for Ministers side by side with an

independent executive within the political framework in which the Government is carried on in the open. The youthful policy-makers in the ministries generally move over to the agencies as they grow older and gain in maturity and experience so as to be able to manage the agencies efficiently. The system is legally oriented and works within defined limits set by statutes and there is the omnipotent Ombudsman looking into any infringements.

We have yet to imbibe this philosophy. On the contrary, every time a new government is formed or is reconstituted, the existing ministries are tampered with. It has become not so much a question of choosing ministers for portfolios as of finding portfolios for ministers chosen on regional, communal and other considerations. By a hasty permutation and combination of departments and functions and the addition of executive responsibilities, the required number of ministerial charges is contrived. The argument is put forward that with the growing complexity of the business of government and its over-widening scope, it is necessary to create more ministries and to lighten the burden of others to make them manageable.

The first imperative is to constitute a smaller Cabinet comprising the conventional portfolios of External Affairs, Home, Defence, Finance and Law, and integrated portfolios of Commerce and Industry, Communication, Social Service, Food and Agriculture, each with clearly distinguishable departments in charge of Ministers of State supported by Deputy Ministers. Ministries such as Industrial Development and Internal Trade, Foreign Trade and Supply cannot function in isolation and should be brought together under the unified control of a single Minister. Similarly, Railways, Transport and Shipping, Communication and Civil Aviation should constitute another portfolio. The functions of the Ministries such as Education, Health and Labour, should also be combined in one Ministry. Food and Agriculture might continue as an entity for the time being, but it should interest itself largely with research and co-ordination.

These changes should make for a more harmonious relationship between the Union and the States and take the sting out of the demand for a redefinition of Union-State relations. Similarly, if the state undertakings dispersed in several ministries were to be brought together and placed under an autonomous Development Board working in close collaboration with the Planning Commission and made accountable to the Prime Minister, assisted by a Minister of State, uniformity in employment and procurement policies could be ensured and a national organization built up for industrial research and designs.

Another salutary principle is that a Cabinet Minister should have a single secretary as his official counter-part. Though no other arrangement could be conducive to efficiency and economy, we have

completely discarded this principle. In pre-Independence days, each department had a secretary supported by the required number of deputy-secretaries and under-secretaries. A joint secretary, who was regarded as a junior secretary and functioned as such, was provided only to the odd department which had become too heavy for a single secretary to manage. In consequence, the number of joint secretaries in the Government of India was smaller than the number of secretaries. But there is hardly a ministry at the Centre today which has a single secretary. A new category of special secretary has been created and additional secretaries are in too large number, despite the fact that successive reviews concluded that this category should be eliminated. With the reconstitution of portfolios, each Cabinet Minister should have a single secretary, and each Minister of State in charge of a department comprised therein. The category of joint secretary should be drastically trimmed and the category of deputy secretary should be suitably enlarged with greater responsibilities as in the post-Independence Government of India.<sup>1</sup>

In the end, we give a summary of the recommendations made by the Administrative Reforms Commission (ARC), in its report on the Machinery of the Government of India. Suggesting a compact Cabinet of 16 Ministers including the Prime Minister, to ensure homogeneity, speed and purposeful functioning, the ARC has, in its report to the Government of India, said that in selecting his colleagues, the Prime Minister should give special attention to considerations of political standing, personal integrity, intellectual ability and capacity for taking decisions and sustained application to work.

Among the other major recommendations of the Commission are :

(1) The strength of the Council of Ministers should normally be 40. It may be increased in special circumstances but should in no case exceed 45.

(2) The three-tier system in the ministerial set-up, comprising Cabinet Ministers, Ministers of State and Deputy Ministers may continue. The office of Parliamentary Secretary, which has now fallen into desuetude need not be revived.

(3) The Prime Minister should be given institutional support, in the form of a Deputy Prime Minister, for ensuring efficient and effective functioning of the governmental machinery. The Deputy Prime Minister should have the charge, in addition to his own portfolio, of such subjects and ad hoc assignments as the Prime Minister considers appropriate. The office of the Deputy Prime Minister should be recognised in the Transaction of Business Rules.

(4) The Prime Minister should not ordinarily be incharge of a Ministry. His time should mostly be available for guidance, coordination and supervision.

<sup>1</sup> *The Statesman*, 19 July 1971.

(5) An ad hoc Committee of Ministers may be set up for investigating (but not deciding) particular issues and reporting to the Cabinet or the appropriate Cabinet Committees, as the case may be.

(6) A Minister should take a holiday of at least two weeks in a year which he should devote to reading, reflection and relaxation.

(7) The official relationship of the Secretary to the Minister should be one of loyalty and of the Minister to the Secretary one of confidence.

(8) For reinforcing the principle of collective responsibility, it is essential that (a) the Cabinet should be agreed on fundamentals and all important issues are discussed and settled by the Cabinet; (b) A minister does not announce a new policy or a major departure from current policy without the approval of the Cabinet; and (c) a Minister should not ordinarily speak or make announcements on matters not within his portfolio. However, if the circumstances so require of him, he must get himself properly briefed by the Minister concerned.

(9) Standing Committees of Parliament may be set up for reviewing the work of Departments grouped in five sectors, namely, Social Services, Economic Administration, Defence and Foreign Affairs, Food and Rural Development, and Transport. These Committees should function on the lines of the Committee on Public Undertakings and without taking over the functions of the Public Accounts Committee.

(10) The chief personnel officer in a Ministry should serve as a focal point for the formulation and coordination of overall personnel policies, initiating measures for promoting personnel development and matters concerning discipline, appeals, memorials and service rules of cadres administered by the Ministry.

(11) Each secretariat wing should have its separate identity and its budget should appear as a distinct unit in the budget of the Ministry. Its head should enjoy adequate administrative and financial powers.

(12) There should be only two levels of consideration below the Minister, namely, (i) Under Secretary/Deputy Secretary, and (ii) Joint Secretary/Additional Secretary/Secretary. Work should be assigned to each of these two levels on the lines of 'desk officer' system. Each level should be required and empowered to dispose of a substantial amount of work on its own and should be given the necessary staff assistance.

(13) There should be set up in each Ministry or major administrative Department a Policy Advisory Committee to consider all important issues of long-term policy and to inject thinking inputs from different areas of specialisation into problem solving.

(14) The Department of Administrative Reforms should confine itself mainly to : (a) studies on administrative reforms of a founda-

tional character, (b) building up O and M expertise in Ministries/ Departments and training the personnel of their O & M units in modern techniques of management, and (c) advice and guidance to those O & M units in effecting administrative improvements and reforms.

(15) The Department of Administrative Reforms should be placed directly under the Deputy Prime Minister.

(16) There should be set up a Council on administrative reforms to advise the Central Reforms Agency on the planning of its programme of work to review progress, to help induct fresh thinking into its working, and to co-ordinate the activities of the different professional organisations engaged in research on problems of public management. The Council should consist of eight members, drawn from Members of Parliament, experienced administrators and eminent scholars interested in public administration. It may be presided over by the Deputy Prime Minister.

(17) A separate Department of Personnel should be set up, with a full Secretary in charge, who should work under the general guidance of the Cabinet Secretary.

(18) The new Department of Personnel should be placed directly under the Prime Minister.

(19) An Advisory Council on Personnel Administration may be set up to act as a feeder line of new ideas and thinking on personnel administration. It should be composed of official and non-official experts in different aspects of personnel management, drawn from all over the country.

## CHAPTER V

# CENTRAL SECRETARIAT

## I. GROWTH

### EARLY GROWTH

Under the Charter Act of 1833, the business of the Government was conducted by the Secretaries to the Government (and not to the Governor-General). They stood in the same relation to the Government as the minister or secretary of an elective government, of which the head possessed some official attitude. The Secretaries had entire charge of offices and establishments, performed all the routine, and brought forward more important matters in the clear and briefest form. The Secretaries in all civil departments were civil servants; and each Secretary had generally one covenanted assistant or deputy.

The Indian Councils Act of 1861 empowered the Governor-General to make rules and orders from time to time for the convenient transaction of business in his Council. Rules were made by Lord Canning assigning to each member of the Council the charge of a separate department of the administration. Thus, the members of the Council virtually became cabinet ministers, each of whom had charge of one of the great departments of the Government. Their ordinary duties were rather those of administrators than of councillors. The Governor-General regulated the manner in which the public business was distributed among them. He usually kept the Foreign department in his own hands; the other departments were Home, Revenue and Agriculture, Finance and Commerce, Military, Public Works, and Legislative. It was the duty of the Secretary to place every case before the Governor-General or member-in-charge of his department in a form in which it was ready for decision.

By 1919 the work of the Central Government had become onerous and complex. The Secretariat Committee of that year noted that to the extent of 9/10ths of their work, the Government of India were engaged in dealing with cases coming to them from outside, mainly from the provinces. But after the introduction of the Act of 1919 and consequent relaxations of financial and administrative control of the Centre over the provinces, the number of provincial references was greatly reduced.<sup>1</sup> Notwithstanding that, work in the

<sup>1</sup> Secretariat Committee Report, 1919, para 53.

Central Secretariat increased considerably as a result of the political changes. They led to increased activity in such fields as agriculture and research, labour legislation, the affairs of Indians overseas, enquiries of the League of Nations and the International Labour Organisation, and the addition of new subjects, e. g. publicity, broadcasting, civil aviation, Public Service Commission, etc. The discussion of political reforms after 1928 and the introduction of reforms under the Government of India Act 1935 increased the amount of work almost in every department.

The following table gives comparative figures of the superior secretariat staff of the Central Government for the years—1900, 1919 and 1935 :

	1900	1919	1935
Departments	7	9	9
Members	6	7	7
Secretaries and Additional Secretaries	7	11	10
Joint Secretaries	1	—	7
Deputy Secretaries	9	9	12
Under Secretaries	9	8	7
Assistant Secretaries	12	12	15

The figures for the permanent clerical cadres of the Secretariat and Attached Offices (whose number had risen to 9 by 1935) are shown in the following table :

	1919	1935
Superintendents	48	56
Assistants	211	292
Clerks	321	297
		183
Stenographers	36	61

The growth in the number of secretariat departments and personnel after the attainment of independence has been very remarkable. The departments of the Central Government in 1940 were : Home, Finance, Law, Education, Health and Land, Commerce and Labour, Communications, and Defence. During the Second World War, although the number of members of the Governor-General's Council was increased, yet new departments were not created. In 1947 the number of departments was 18, which rose to 25 in 1957 and 40 in 1973. In addition, there were slightly less than 600 units of non-secretariat organisations in 1973. During the decade 1956-66, total employment (both regular and temporary)



in the establishments of the Central Government increased by more than 50 per cent. The following table shows the increase in the number of top officials during the given period :

Category	Period	Increase
Secretaries including Additional, Special and Joint Deputy Secretaries Under-Secretaries Section Officers	1948-1967 " 1948-1965	from 64 to 209 from 89 to 303 from 241 to 457 from 442 to 2493

Before the transfer of power, the Secretariat was arranged in departments, each administering a specified subject, forming the portfolio of a member of the Executive Council. A department was organised in a hierarchy of Assistant, Under, Deputy, and Joint Secretaries, and sometimes with the addition of an Additional Secretary, and placed in charge of a high-level civil servant called Secretary, who was the counterpart of the Permanent Secretary in the UK. On transfer of power, the departments were renamed Ministries, leaving the hierarchical pattern undisturbed. Some ministries comprised more than one department.

The secretariat system in India owes its existence to two strands of administrative philosophy : First, the task of policy-making must necessarily be separated from that of its execution. Second, a transitory cadre of officers operating on the tenure system of staff controlling a permanent staff is a pre-requisite to the vitality of the administrative system as a whole. L. S. Amery says in 'Thoughts on the Constitution' : 'It is only by the creation of a separate policy department, a general staff freed from administration as a whole that it is possible to secure forethought and effective planning.'

The following advantages are claimed in favour of the present 'split' system : (1) Freedom from operational involvements makes policy makers forward looking and plan in terms of the overall national requirements and objectives. (2) The secretariat is the disinterested adviser to the Minister, examining the proposals coming from the executive agencies in an objective way. (3) This separation keeps the secretariat to a smaller size. (4) This system also avoids over centralisation, for the executive agencies are given freedom in the implementation of policies and in the areas allotted to them.<sup>1</sup>

So far as the tenure system was concerned all the posts under the Central Government were not governed by the rule of tenure. But the imposition of a limit to the occupancy of certain appoint-

<sup>1</sup> S. R. Maheshwari, *Indian Administration*, 1967, 29-30.

ments has long been a feature of Indian administration; and the rule obtained both in the Government of India and in the provinces. As applicable to the Central (formerly known as Imperial) Secretariat the tenure system dates from Lord Curzon's time in 1905. It was re-examined in 1920 after the enquiry of the Llewellyn Smith Committee, which favoured a slight extension of the term, though no change was ultimately made, and again in 1935, when the previous customary term of three years (ordinarily) was in some cases extended.

The tenure system was based on the theory that an officer having gained wide experience under the Central Government carried it back with him to the benefit of his province of origin, although there were several exceptions. But in this connection the following considerations are important. First, a system of tenure extendible (for no special reason) at option is essentially bad. There cannot be an absolute rigidity, as short extensions may be justifiable on special occasions; but otherwise to renew tenures on no specific grounds may lead to intrigue and the suppression of independent opinion. It is essential that the judgment of secretariat officers should not be influenced by the expectation of currying favour with those above them. Second, to allow an officer to progress from Under to Deputy Secretary, to Joint Secretary and Secretary is not good either for the department or the officer himself. The periodical infusion of fresh blood is advantageous to the department, and the work of a different type saves the office from becoming stale.<sup>1</sup>

The Study Team of the Administrative Reforms Commission noted the following developments in the sphere since independence :

(a) While the decision making levels were formerly manned by ICS officers, who belonged to the various provincial cadres and came to the centre on limited tenures, now they are staffed mainly by the IAS and the Central Secretariat Service (CSS) and other Central Services (CS) particularly at the lower levels. Thus an element of stability and continuity has been introduced, because all CSS personnel and many from the CS are continuously available, particularly at the higher levels, since the tenure is not strictly applied to them. But a disadvantage of this change is that a large number of officers do not have executive experience, especially the members of the CSS.

(b) Decision-makers in the secretariat were largely the generalists, and the position stands today broadly as before, but on account of the complexity of governmental tasks many economists, scientists, statisticians and experts of other kinds are also brought into the secretariat.

(c) With the large increase in the number of ministerial cadre (from about a thousand in 1939 to about 14 thousand now) the

<sup>1</sup> S. R. Sharma, *Evolution of Public Administration in India*, 330-34.

high quality of the cadre has come down.

(d) As pointed out earlier, the original concept about the secretariat was the separation of the policy formation function from that of the execution, which was the job of non-secretariat organisations. At present the situation has changed, because a considerable amount of executive work is handled in the secretariat and several non-secretariat organisations participate in policy formulation.

(e) The number and kinds of non-secretariat organisations have increased greatly. In addition to the executive agencies, there are today advice-tendering agencies, research and training agencies, departmental undertakings, corporations and boards, established under special statutes.<sup>1</sup>

The chief characteristics of the emergent secretariat system have been summed up as follows :

(1) The secretariat has undergone a large and rapid expansion as would be clear from the following table :

	1900	1919	1937	1954	1966
Secretary/Addl. Secretary	7	12	9 8	23 4	Over 60
Joint Secretary	1	—	87	43+ 7 ex-officio	Over 100
Deputy Secretary	9	7	13	101+ 9 ex-officio	242
Under Secretary	9	8	16	275+ 10 ex-officio	448

(2) One third of the secretariat is engaged in work of a house-keeping nature alone.

(3) The principle 'one secretary for one ministry' is gradually becoming an exception rather than the rule. The minister in most ministries is now advised by more than one secretary.

(4) The office of joint-secretary has become a regular feature now.

(5) There are some faint indications of departure from the principles of unity of command, span of control, etc. The norm even now is that an employee reports to only one person, but exceptions to this rule are emerging.

(6) Although superior positions in the ministry are staffed by officers belonging to the ICS and IAS, the secretariat today suffers from a degree of departmentalism.<sup>2</sup>

<sup>1</sup> Report of the ARC Study Team on the Machinery of the Government of India and Procedures of Work, 26-28.

<sup>2</sup> S. R. Maheshwari, *op. cit.*, 52-53.

## II. FUNCTIONS AND IMPORTANCE

The functions of the secretariat in the different ministries and departments are as follows :

- (1) assisting the minister in policy making;
- (2) framing legislation, rules and regulations;
- (3) sectoral planning and programme formulation;
- (4) budgeting and control of expenditure; also according or securing administrative and financial approval to operational programmes and plans, and their subsequent modifications;
- (5) supervision and control over the execution of policies and programmes by the executive departments or semi-autonomous field agencies, and evaluation of the results;
- (6) coordination and interpretation of policies, assisting other branches of government and maintaining contact with state administrations;
- (7) initiating measures to develop greater personnel and organisational competence both in the ministry/department and its executive agencies; and
- (8) assisting the minister in the discharge of his parliamentary responsibilities.<sup>1</sup>

The secretariat is the main office, *i. e.*, the organisation which assists the Government in the fulfilment of its responsibilities. Its role is very significant and many-sided. First, it assists the ministers (who are elected on the basis of broad programmes and are new to their tasks) in the formulation of governmental policies. Policies are normally framed on the basis of adequate data, precedents and other relevant information, which are made available to the minister by the secretariat. Secondly, the secretariat assists the ministers in their legislative work, by preparing drafts of legislation to be introduced in Parliament, by collection of relevant information for answering parliamentary questions as well as for parliamentary committees. Thirdly, the secretariat acts as the clearing house preliminary to governmental decisions. In this respect it enables the government to examine the emerging problems, and carries out a detailed scrutiny of a problem from a comprehensive point of view. It also functions as the main channel of communication between the government and other agencies like the Planning Commission and the Finance Commission. Finally, the secretariat also sees to it that the field agencies execute the policies and decisions of the government, with efficiency and economy.

From the above discussion, it is clear that the secretariat is the highest office as well as the nerve centre of the Central Government. At the same time, it is the centre of power, as its orders are carried

<sup>1</sup> ARC Study Team, *op. cit.*, 30.

out throughout the length and breadth of the country. Policies and programmes of the Government originate from the secretariat. It is also the centre of conflicts, clashes and cooperation between the minister and the civil service. It is here that the minister and the senior civil servants work together and meet almost every day. Since the decisions taken in the secretariat are vital for the society and affect the interests of well-organised social and economic groups, it is generally subjected to all kinds of political, sectional and economic group pressures.

Thus, in the hierarchy of administrative organisation, the central secretariat has an apex position. In the words of the ARC : 'The secretariat system of work...has lent balance, consistency and continuity to the administration, and served as a nucleus for the total machinery of a ministry. It has facilitated inter-ministry co-ordination and accountability to Parliament at the ministerial level. As an institutionalised system it is indispensable for the proper functioning of government.'<sup>1</sup>

### III. ORGANISATION AND PROCEDURE

The central secretariat constitutes the vast and complex organisation of a large number of ministries and departments. Broad outlines of the organisation of the ministries of Home Affairs, External Affairs and Finance have been given in the preceding chapter. Since each one of these ministries has more than one department, the organisation of various departments has also been included in the preceding chapter. However, the usual pattern of the organisation of a ministry is as follows :

Minister, political head, assisted by one or more deputy ministers.

Secretary, permanent head, or head of the bureaucracy under the ministry; he acts as chief adviser to the minister ; a ministry may also have special or additional secretaries. Joint secretary (administration) looks after personnel and office management. There may be one or more subject joint-secretaries.

Internal Finance Adviser, who acts on behalf of the Finance Ministry.

Deputy and Under secretaries ; they assist the secretary and joint-secretaries.

Office, which is coterminous with the section, of which there are two with each Under Secretary. Each section is headed by a section officer, who supervises the work of dealing hands. The number of dealing hands in a section varies from three to seven but is usually five, four of whom are assistants and the fifth an upper division clerk. In addition, there is ancillary staff at both levels,

<sup>1</sup> ARC Study Team, *op. cit.*, 30.

personal assistants, stenographers and peons for officers, and employees for record duties and office services in the section. The following chart gives the secretariat organisation.

<i>Secretary</i>	
(Additional, Special Secretaries)	
<i>Wing</i>	
Joint Secretary	<i>Office</i>
<i>Division</i>	
Deputy Secretary	<i>Section</i>
<i>Branch</i>	
Under Secretary	<i>Section Officer</i>

Joint secretaries constitute the effective decision-making level below the Minister and the Secretary. The usual pattern is two Deputy Secretaries under a Joint Secretary and two Under Secretaries under a Deputy Secretary. The Joint Secretary's charge is known as wing, the Deputy Secretary's division and the Under-Secretary's as a branch.<sup>1</sup>

A ministry may have one or more departments, and since a department is a secretary's charge, there may be one or more secretaries in a ministry. A secretary is usually incharge of a department or specified segment of work. But in every ministry one secretary is head of, and represents, the entire ministry ; other secretaries are subordinate to him, who, in addition to his own work, coordinates the work of these secretaries. For example, the Ministry of Defence, comprising two departments, has three secretaries—Defence Secretary, Secretary of Defence Production, and Secretary of Defence Supply Department. Emoluments of all the three secretaries are the same, but the rank of the first is a little higher than that of the other two.

Evidently, the grades of officers in a department are : (1) Secretary, (2) Additional Secretary, (3) Joint Secretary, (4) Deputy Secretary, and (5) Under Secretary. The first three grades constitute the 'Top Management' and the last two the 'Middle Management.' The functions of the Secretary are : (i) He is the administrative head of the ministry—department; (ii) he is the principal adviser to the Minister ; (iii) he represents his Ministry/department before the committees of Parliament ; (iv) he keeps himself fully informed about the work of his ministry/department; and (5) he issues general or specific instructions for certain cases or types of cases for direct submission to him.<sup>2</sup>

<sup>1</sup> C. P. Bhambhri, *Public Administration in India*, 26.

<sup>2</sup> 'A secretary has three-fold functions ; he is the principal adviser of the minister in matters of policy and administration ; he is responsible for the efficient and economic administration of his department and the attached offices and other organisations which it controls ; and he represents the department before the Parliamentary Committee on Public Accounts to give an account of its financial administration.' —Asoka Chanda, *Indian Administration*, 140.

Where the charge of a Secretary is unduly heavy, he may be assisted by an Additional or Joint Secretary. An Additional or Joint Secretary is in charge of a wing with full authority to dispose of business arising in his charge. Thus he relieves the Secretary of a segment of work and deals, where necessary, direct with the Minister, but the Secretary is kept informed about all these direct dealings. The Deputy Secretary, as his designation signifies, acts on behalf of the Secretary. He controls a division comprising of branches, each of which is in the charge of an Under-Secretary. In many departments there are also Officers on Special Duty (OSD). The practice of appointing such officers dates from the period of British rule. There is some justification for appointing an OSD under certain situations, when some work is considered of much importance and it is also considered desirable that the same could be better performed if one individual was made responsible for that.

#### THE OFFICE

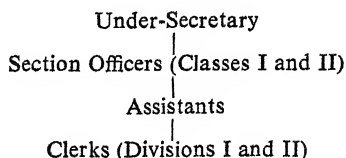
As mentioned earlier, the 'Office' within a department is the permanent element in its composition and is the repository of specialized knowledge and precedents, assisting in maintaining continuity in government decisions. It is the function of the office to receive a reference, arrange papers, quote precedents and submit the case in a form which will help the officers to take the correct decision. The effectiveness of a department is, therefore, conditioned by the efficiency and alertness of its office components. It is for this reason that it has undergone several transformations as a result of successive reviews of its organization and methods of work.

Originally the office consisted of clerks in two divisions—upper and lower—supervised by superintendents, a few of whom were promoted to the directing cadre and were designated Assistant Secretary. An Assistant Secretary was the link between the officers and the office and, therefore, was a part of both cadres. Some of the departments had Registrars to supervise the ministerial staff and to ensure that departmental work was carried out efficiently. The posts of Superintendents, Registrars and Assistant Secretaries were filled by promotion on a departmental basis; the clerical posts alone were filled by direct recruitment made by individual departments acting independently.

The 'Office' has existed since the beginning as a permanent organisation, below the level of superior officers. Its great importance lies in the fact that the efficiency of higher level officers very much depends on the competence of the Office. It is the foundation sustaining the entire super-structure and serves as the organisation 'memory', being the repository of specialised knowledge and products. The functions of the office may be enumerated as follows: (i) To link all the previous papers quoted in the 'Fresh

Receipt' ; (ii) To see that all the facts, so far as they can be checked, are correct ; (iii) To draw attention, where necessary, to the statutory or customary procedure and to point out the law and rules where they are to be found ; (iv) To supply other relevant facts and figures available in the ministry ; (v) To state the question or questions for consideration and to bring out the points requiring decisions ; and (vi) To suggest a course of action, wherever possible.<sup>1</sup>

At present the office comprises : Section Officers, Assistants, Upper Division Clerks (UDCs), Lower Division Clerks (LDCs). Its present layout is as follows :



The two divisions of clerical grade are filled by recruitment on the results of a common competitive examination, but the vacancies in the first division are equally divided between direct recruits and those promoted from the lower grade. Superimposed on this clerical base is the grade of Assistant which is filled 50 per cent by promotion from the clerical grade and 50 per cent by direct recruitment. The work of the section officer is mostly supervisory, although he also settles minor cases sometimes. He has under him 3-4 assistants, usually 1 UDC and 2-3 LDCs. While the LDCs perform routine duties, such as collection of previous papers, maintenance of files and registers, receipt of letters and papers and despatch of mail, the UDC in addition to performing similar functions, also appends notes on simple cases and assists in their disposal. The assistant collects precedents, examines relevant rules and orders on the subject and makes suggestions for disposal.

#### SECRETARIAT PROCEDURE

Communications or cases addressed to a Ministry or a Department are received in the Central Registry, which distributes them to the various Sections concerned. The Section Diarist, on receipt of the communications from the Central Registry, submits them to the Section Officer who, after going through the 'receipts,' classifies them into two categories, e. g. 'primary' and 'subsidiary.' All initial receipts regarding original or new items of work are 'primary' receipts, and all communications emanating in connection with the 'primary' receipts in course of interim consultations of references are 'subsidiary' receipts. The 'primary' receipts are

<sup>1</sup> S. R. Maheshwari, *op. cit.*, 43.



further sub-divided into two categories, viz. (a) those requiring elaborate examination or prolonged consultations and not expected to be disposed of within a month, and (b) others. After making these classifications the Section Officer marks them to the dealing Assistants concerned. If some of the receipts are of a difficult nature or present any special features which require personal attention, the Section Officer either deals with such receipts himself, or gives necessary instructions to the dealing Assistants. If some of the communications received need urgent disposal, the Section Officer marks them for the attention of his higher officers for necessary orders at that stage. The diarist, after getting back the day's receipts from the Section Officer, passes the receipts to the dealing Assistants concerned, after entering them in the diary.

The dealing Assistant, after going through a receipt, collects the file on the subject (if one already exists) and other connected papers and files, if any are referred to in the receipt. Finally, he submits the case with a note to the Section Officer, who scrutinises the notes of the Assistant, adds his own remarks or suggestions, if any and submits the case to the Branch Officer (Under Secretary). He generally disposes of as many cases as possible on his own responsibility, and takes orders of the Deputy Secretary or higher officers on cases of an important nature, or those involving policy questions. The Deputy Secretary of a Ministry, who is generally vested with some delegated powers, disposes of certain types of cases himself, if they are within his purview : otherwise he submits them with his views or suggestions to the next higher officer, the Joint Secretary or the Secretary, as the case may be. Such papers are generally of a very important nature, involving policy decisions. They, in turn, submit more important cases to the Minister, but when a case is submitted to the Minister, a self-contained summary is put up for his perusal. The Minister finally uses his discretion as to whether he will pass orders himself or refer the case to the Cabinet for a decision.

It is the duty of the Cabinet Secretary to ensure that the papers submitted are in fact complete and in proper form. But in most cases the Minister is the deciding authority, and his orders or directions are final, so far as the department is concerned. It has already been pointed out that it is the duty of the Secretary to Government in the department to advise the minister in all matters that require the latter's orders. Once the Minister has taken his decision, it becomes the duty of the officials in the department to loyally carry it out.

## CRITICISM AND SUGGESTIONS

The organisation and working of the secretariat has been

criticised on various grounds, which we would examine briefly :

(1) It is an over-grown institution. Taking into consideration the amount of its essential work, it seems to have too many persons working in the offices and the departments.

(2) Its officers suffer from a certain amount of superiority, even arrogance and vanity, which are reflected in their behaviour towards the executive agencies. They can perform their policy-making functions efficiently, if they live close to the realities of the situation. It is, therefore, desirable that these personnel should be systematically transferred between the Secretariat and the field. But such a system is largely lacking in the secretariat.

(3) The secretariat is principally a policy-making body, but at present it also performs much work which should be done in the non-secretariat organisations. Thus it has added a number of executive functions, although it was intended to be a brain centre for policy-making and for keeping an overall eye on matters which call for coordination. This results in two disadvantages : first, the secretariat is prevented from concentrating on policy-making ; and secondly, this encroachment has very much weakened the authority of the executive agencies.

(4) There is a preponderance of generalists in the secretariat, while it needs a larger number of technocrats and specialists to handle complex problems of modern administration.

(5) The secretariat procedure suffers from delay on account of : (i) lack of adequate delegation of authority to executive agencies ; (ii) cumbersome procedures of doing work in the secretariat ; and (iii) the common practices of postponing decisions, over consultation and excessive coordination. In this connection the following observation is significant :

‘The criticism, justifiably made, is that a case, however, simple, has to pass through several levels of the hierarchy before a decision is taken on its disposal. Exceptions occur in urgent and important cases, but the normal procedure is for a ‘receipt’ to be first noted upon by an Assistant in the light of existing rules and orders, and also of precedents. A section officer is expected to advise his Assistants and perhaps also suggest to them the lines on which proposals for disposal should be made. Usually, there is no separate contribution by him. The case then goes upto the next higher level, *i. e.* the Under-Secretary. It may well be one on which decision can only be taken at the highest level—that of the Minister. Even in such a case, it progresses step by step up the entire hierarchy of Under-Secretary, Deputy Secretary, Joint Secretary, and Secretary, before it is submitted to the Minister. The question naturally arises, are all the steps necessary, and must they be, in variably, taken in all cases ?’<sup>1</sup>

<sup>1</sup> Asoka Chanda, *op. cit.*, 159.

(6) The methods of work in the secretariat are uniform, *i.e.* the same for dealing with specialised and non-specialised matters. The dominance of the generalists and the practice of uniform method of work based on the system of 'noting' are quite unhelpful in dealing with highly specialised and technical matters.

There is an element of truth in each of the above points of criticism. The following suggestions (recommendations) made by the Administrative Reforms Commission in its report on the Machinery of the Government of India deserve careful consideration by the Government :

A. (i) Non-secretariat organisations engaged primarily in planning, implementation, coordination and review of single development programme or several allied programmes, covering a substantial area of the activities of the Ministry and having a direct bearing on policy-making should be integrated with the Secretariat of the concerned Ministry. Such amalgamation is especially significant in the case of activities of scientific and technical character and activities which call for a high degree of functional specialisation.

(ii) The heads of non-secretariat organisations which are integrated with the Secretariat should function as the principal advisers to the Government in the respective areas and should enjoy a status appropriate to the nature of their duties and responsibilities. They may retain their present designations. It is not necessary to confer on them a formal *ex-officio* secretariat status.

(iii) In all other cases the present distinction between policy-making and executive organisations may be continued. Such distinction is vital for protecting the operational autonomy of the regulatory executive agencies and such developmental executive organisations as are mostly engaged in promotional activities, provision of a service or production and supply of a commodity.

(iv) Executive functions at present performed by an administrative Ministry or Department which do not have a close bearing on policy-making should be transferred to an appropriate, existing non-secretariat agency or to a new executive organisation specially created for the purpose, provided that the volume of the work justifies its creation.

(v) Policy personnel in Departments and Ministries dealing with scientific and technical matters or with functions of highly specialized character should include persons having relevant specialized experience or expertise.

B. (i) In non-staff Ministries other than those with board-type of top management, there should be set up three 'staff' offices namely : (a) an office of planning and policy, (b) a chief personnel office, and (c) a finance office. An administrative department with a heavy charge or with functions which have no close affinity with the work of other departments may have a separate

planning and policy office.

(ii) The office of planning and policy should include the planning cell recommended in the ARC report of Machinery for Planning. This office should continuously be engaged in formulating long-term policies, carrying out policy studies and evolving a series of well-articulated policy statements. It should also deal with the parliamentary work of the Department/Ministry.

(iii) The chief personnel office in a Ministry should serve as a focal point for the formulation and co-ordination of overall personnel policies, initiating measures for promoting personnel development and matters concerning discipline, appeals, memorials and service rules of cadres administered by the Ministry. It may also look after office management, O & M and general administration.

(iv) Each of the three 'staff' offices should be manned by staff having specialized knowledge and experience. The head of each 'staff' office should generally be of the rank of a Joint Secretary though in some cases he may even be a Deputy Secretary or an Additional Secretary depending on the quantum of work.

(v) In addition to the three staff offices each Ministry should have a public relations office or unit.

(vi) The heads of the 'substantive work' wings may deal directly with the chiefs of the three 'staff' offices, as also with the Secretary and Minister on matters of technical or operational policy. Proposals having a bearing on long-term policy should, however, be processed through planning and policy office.

C. (i) Distribution of work between the wings of a Ministry/ Administrative Department and within the divisions of a secretariat wing should be based on considerations of rationality, manageability of charge and unity of command.

(ii) Each secretariat wing should have its separate identity and its budget should appear as a distinct unit in the budget of the Ministry. Its head should enjoy adequate administrative and financial powers.

(iii) The head of the wing should have the primary responsibility for good administration within the wing, effective supervision and control of staff and maintenance of high standards of discipline and conduct.

(iv) The head of the wing should have considerable say in the formulation of the wing budget, creation of posts, subject to budget provisions, spending of budgeted funds and appointment of personnel to the wing and their transfer therefrom. He should also have the necessary powers for effective day-to-day personnel management in the wing, e. g. powers to sponsor staff for training, to grant honorarium, to impose minor penalties and to fill short-term leave vacancies.

D. (i) (a) There should be only two levels of consideration

below the Minister, namely, Under Secretary/Deputy Secretary, and Joint Secretary/Additional Secretary/Secretary. Work should be assigned to each of these two levels on the lines of 'desk officer' system. Each level should be required and empowered to dispose of a substantial amount of work on its own and should be given the necessary staff assistance. (b) The staffing pattern within a wing may be flexible to facilitate the employment of officers of various grades. (c) The duties and requirements of various jobs in the Secretariat at each of the two levels should be defined clearly and in detail on the basis of scientific analysis of work content.

(ii) For smooth and effective working of the proposed 'desk officer' system, the following measures will be necessary : (a) introduction of a functional system of a file index; (b) maintenance of guard files or card indices which will contain all important precedents; (c) adequate provision for 'leave' reserve; and (d) adequate stenographic and clerical aids.

(iii) (a) There should be set up in each Ministry or major administrative Department a Policy Advisory Committee to consider all important issues of long-term policy and to inject thinking inputs from different areas of specialization into problem solving. The Committee should be headed by the Secretary of the Ministry and should include the heads of the three staff offices (of planning and policy, finance and personnel) and heads of important substantive work wings (including those of the non-secretariat organizations integrated with the Ministry/Administrative Department). As and when necessary, the heads of governing bodies of important research and training institutions and boards and corporations outside the Government may be co-opted as members of the Policy Advisory Committee for such items of work as are of interest to them. (b) Self-contained papers or memoranda, setting out problems, their various alternative solutions merits and demerits of each alternative, etc., should be prepared for consideration by the Committee, and the decision arrived at should be duly recorded in minutes.

## CHAPTER VI

# PARLIAMENT AND ADMINISTRATION

### I. PRELIMINARY CONSIDERATIONS

Among the three organs or branches of government the legislative organ unquestionably occupies the paramount place. In modern states, the legislature is the principal law-making power. Broadly speaking, it performs two types of functions—(a) law-making, and (b) deliberative. The former may be taken to include the actual mechanism of making laws, drafting, etc., which is ordinarily done by the administration. Since content and end of the law are more important, it is the deliberative function which determines them. But the deliberative function does not exclusively belong to any particular branch of government, because the executive, particularly in a parliamentary form of government, also plays an important role in deliberation. Even then it is considered to be the most important function of a legislature, which represents the nation as well as its centralised thought.

In a democracy, which is the popular form of government today, the legislature represents the people and their will. As a representative body of the people, the legislature lays down policy, and makes necessary laws. In order that the policy laid down and the laws enacted by it are properly executed and enforced, it is very necessary that the legislature should exercise control over the administration. During the stage of policy formulation, the government alone considers it and gives it concrete shape. Parliament comes into the picture only when the proposal comes before it for approval. The Government also has a free hand in implementing the policy and Parliament has no right of inspection of the administration, which is responsible for carrying out the executive tasks assigned to them. Broadly speaking, the executive has an important role in formulating policies and taking steps to implement those policies. The Parliament has full power to call for information and to verify afterwards that the Government and the administration have acted in conformity with obligations and utilized the powers conferred upon them for the purposes for which they were intended.

Legislative control may be both positive and negative. It is positive when the legislature controls supply, participates in appointments (as in USA), delegates functions, determinse

administrative activities and exerts pressure and influence on administrative decisions. Control is negative when the legislature makes punitive investigations, removes officials by a variety of devices, rejects executive policy and refuses appropriations. From another point of view the means of control are either formal or informal. In the former we may include such as the enactment and amendment of laws, powers of creating departments, controlling the personnel and appropriations. The informal means include influence exerted through asking of questions, demanding information and contacts with the chief executive as well as the administrative heads.

On the subject of administrative responsibility to Parliament, with special reference to India, it has been observed : 'It is the duty of the administration to feed Parliament with information and it is done in various ways. The most formal method, when the members want, is that they write for information and this is supplied either to the member concerned or, if it is of general applicability, to all members. The government also, of its own, feeds Parliament with information. The most formal method of giving information to Parliament is to place the papers on the table. The second but the most important scrutiny by Parliament concerns finances of the country. Government has complete freedom to suggest what the level of their expenditure should be and specify the purposes for which various amounts are required. They have also full freedom to suggest how revenue should be raised to meet the expenditure.

'Administration comes under close scrutiny of Parliament when the budget is under discussion. Each ministry, department, office and sub-office is on trial and it can be sanctioned money only after its activities during the year have been closely examined and discussed. There is no matter which cannot be raised during the debate. Questions of policy, economy, grievances, complaints, adequacy or inadequacy of projects, schemes, and outlays can always be raised and the minister has to give satisfaction before he can be left off. Although nearly two months of Parliamentary sitting are devoted to these discussions, they are neither adequate nor detailed. On the nature of things they cannot be. So Parliament conducts further scrutiny through three specialized committees of its own—Committee on Estimates, Public Account Committee and Committee on Public Undertakings.... Apart from the financial committees of Parliament are other scrutiny committees to whom the administration is answerable. They are (1) Committee on Government Assurances, (2) Committee on Subordinate Legislation, and (3) Committee on Petitions.<sup>1</sup>

Modern governments are characterised by a phenomenal proliferation of state activities. The assumption by the state of welfare

<sup>1</sup> S. L. Shakhder, *Administrative Accountability to Parliament*, I. J. P. A., Vol XII, No. 3, 359-64.

functions and the unprecedented advances in science and technology during the twentieth century have resulted in an enormous increase in the range and scope of government functions and responsibilities. The result of this growth in state activities has been a corresponding expansion in administrative machinery and the emergence of new political and administrative institutions. The spread of the modern welfare state and its activities are so vast and complex that the executive has also come to exercise far-reaching functions of a quasi-judicial and legislative character.

'It is claimed that in the performance of these functions the executive would be greatly hampered and handicapped if prior sanction of parliament were required for all executive action. Experience of the working of a parliamentary and welfare government has led parliament to confine itself to the broad framework of policy. In the sprawling area of administration, parliamentary control has taken the form of *ex-post facto* supervision and control. While it is necessary for parliament to retain initiative, control and its supervisory role, care has to be taken that unduly detailed controls do not affect the flexibility, efficiency and discretion in the conduct of governmental programmes.'<sup>1</sup>

In a parliamentary democracy control is particularly justified on other grounds as well. 'It is a common-place experience that administrative bureaucracy characterised by red tape and callousness generates a crisis of confidence in the democratic system and if a parliament fails to control its ruling bureaucrats in the name of ministerial control it does little to justify its existence. Parliamentary vigilance, if not policing over the administration, has been viewed as a healthy convention to checkmate undesirable practices in administration especially corruption and inefficiency. Then in a socialist State where a big bureaucracy runs the public sector industries, it is incumbent upon the Parliament to act as a custodian of public money and to supervise directly how the administrators manage them in the best interest of the society. In other words, Parliament represents the popular sovereignty. Its direct as well as indirect control over administration is a logical conclusion to which demands of socialism and goals of welfare administration add much meaning and substance.'<sup>2</sup>

The content and form of control over the executive vary from country to country, depending upon the type of constitution it has adopted. In the USA whose constitution is based on the theory of separation of powers, legislative control over the executive is quite different from a country like India where the Cabinet is responsible to Parliament. Here constitutionally as well as in practice, Parliament and Government are linked as partners in the conduct of public

<sup>1</sup> L. M. Singhvi, *Parliament and Administration*, 1-4.

<sup>2</sup> B. Mehta, *Dynamics of State Administration*, 107.



affairs by a whole network of relationships. An analysis of these relationships would enable us to assess accurately the influence exerted by the one on the other. First, in the parliamentary governments, the Minister is responsible to the Parliament for the administration of his department. He assumes responsibility for all the actions of civil servants; because they cannot give answers in the Parliament and are responsible to their Ministers. As such they are not subjected to parliamentary criticism. This principle was asserted in the well-known Crichton Down Case in England and was also enunciated in the case of the Mundhra Affair in India.

Second, the ever expanding services and activities of Government involve expenditure of huge sums of money. It is the function of Government to estimate the total financial requirements of the State and the total resources available to cover them. The budget is in essence such a document which is prepared by Government and is presented to Parliament. A defeat on estimates involves resignation of the Government. They cannot, therefore, be varied or any new item added. No obligation can be placed on the Consolidated Fund without a motion moved by a Minister and no new activities can be proposed except by Government. Administrative accountability in financial matters is so rigid that if any amounts have been spent in excess of the parliamentary sanctions, they may have to be made good by the individual officers responsible for excess expenditure, unless regularised by Parliament, and regularization by Parliament can take place only after full explanations have been submitted to it through its Committees, and the Committees have recommended it.

The Parliament is free to criticize, comment, approve or applaud the performance of the bureaucracy, but it is not entitled to do so at a personal level; because the Minister is constitutionally responsible for whatever is done and the credit or discredit goes to him. Parliament is also free to make suggestions for improving the efficiency and integrity of the administration; but its preoccupation is generally with political matters. The study of administration reports, plans and programmes require time and patience. 'Even so, it is good for the government and the bureaucracy that Parliament (or legislature) and its members take interest in the details of administration. In a country where representatives are elected on adult franchise and with a low percentage of literacy, the member of Parliament has an onerous role to play because he has to assimilate and articulate what the elector is not able to do or does not care to do. Particularly in an era of development and in a welfare State, aiming at socialism, the elected representative has to some extent to assume the role of an official to study and digest, and to suggest and demand on behalf of his constituents.'<sup>1</sup>

<sup>1</sup> N. M. Mudaliar, *Indian Administration : Today and Tomorrow*, 15,

In the end, public administration, in a parliamentary democracy such as ours ought to function within the framework of a well-defined set of constitutional provisions, laws, rules and conventions set forth hereunder : (1) The supremacy of Parliament over the executive and the right of Parliament to seek, receive and appraise information about governmental actions with a view to reviewing the working of administrative machinery; (2) the collective responsibility of the Council of Ministers to Parliament and the determination of major policies by the Cabinet; (3) the individual responsibility (as a part of the collective responsibility) of each Minister holding a portfolio for formulating departmental policies, to oversee their implementation and to ensure efficient working of the administrative machinery under his charge; (4) the obligation of Ministers, as well as of civil servants to uphold the constitution and the rule of law; (5) the obligation of every civil servant to implement faithfully all policies and decisions of the Ministers even if these be contrary to the advice tendered by him; (6) the freedom to civil servants to express themselves frankly in tendering advice to their superiors, including Ministers; and (7) the observance by civil servants of the principles of political neutrality, impartiality and anonymity.<sup>1</sup>

## II. METHODS OF EXERCISING PARLIAMENTARY CONTROL

The general control of Parliament over the policies and actions of Government is exercised mostly at the initiative of individual members of the Parliament. For this purpose he has many opportunities to raise important political, policy or administrative issues either requiring an answer from the Government, or criticising its activities generally. Various methods in use are : motions of no confidence, questions, short notice questions, half-an-hour discussions, adjournment motions and other types of motions and resolutions. Each of these devices calls for some explanation and discussion which follows :

### MOTION OF NO-CONFIDENCE

The most important constitutional right in the hands of a member is to move a vote of no-confidence against the Council of Ministers or any Minister. The procedure for moving no-confidence motions is governed by Rule 198 of the Rules of Procedure which provides that, if the speaker is of opinion that the motion is in order, he shall read the motion to the House, and if not less than fifty members rise (indicating their support), the Speaker shall

<sup>1</sup> H. V. Kamath, *Principles and Techniques of Administration*, *Bhavan's Journal*, Vol. XVI, Nos. 14 and 15.

declare that leave is granted and that the motion will be taken up on such day, not being more than ten days from the date on which the leave is asked for, as he may appoint. When leave to move the motion has been granted, the Speaker has to determine the time to be allotted for the discussion of the motion. During the debate on the motion, members are at liberty to call in question any policy or act of government. They may list any or all the faults of government. The debate takes place for a reasonable duration of time so that all the opposition view-points may be stated.

Supporters of the government defend it and almost all ministers whose policies or departmental acts are criticised take part in the debate. The Prime Minister winds up the debate on behalf of the Government. The administrative apparatus is not directly affected, but since it is bound with the Government in all fields, the ministries and departments have to supply material, facts and data to the Government and strengthen the government's case as best as they can. Besides the support of its own party, the Government may also get support from opposition members who agree with its policy. But the division is ordinarily along the party or political lines. Generally, such a motion is defeated, because if it is passed the ministry has to resign. So its purpose is mainly to get an opportunity for discussion on an important issue and criticise the Government for its failures. Thus it is an important instrument in the hands of the opposition for attacking the Government.

#### GENERAL DISCUSSIONS

A glance at the parliamentary debates on the economic affairs and policy of the country in the course of 'calling attention notices', 'half-an-hour discussion', 'resolutions', 'cut motions' and 'general discussions' on the annual budget, the President's address etc. would show that through these devices members of Parliament subject to a critical review and assessment Government's actions and intentions in the field of public administration. They utilize every opportunity to suggest measures to bring about rapid economic development and remove the prevailing lacunae and uncertainties. Some of them have from time to time emphasised that there would be no necessity for Supplementary Grants if there were a better appreciation and understanding of the situations beforehand. A change of attitude and development of a spirit of economy is absolutely necessary at the present stage when the country is passing through a series of economic stresses and strains. Parliamentarians have often expressed their concern over the inordinate rise in the number of top and middle level posts, viz. Secretaries and Joint, Deputy and Under Secretaries. Parliamentary discussions at times have a real impact on Government programmes and policies in economic matters. For example, such an impact was clearly discernible in the modifi-

cation and relaxation of the Gold Control Order by the Government, largely in response to the demand to this effect made by members of Parliament.

Members of Parliament get a good opportunity to review the working of administration during the following stages of budget discussion : (i) general discussion on the budget, (ii) discussion and voting of demands for grants, (iii) consideration and passing of the Appropriation Bill, and (iv) consideration and passing of the Finance Bill. The allotment of time for the general discussion on the budget and for discussion and voting of demands for grants for two different years was as follows :

Year	(Time in hours)			
	General discussion	Railway Budget Demands for grants	General discussion	Central Budget Demands for grants
1960	14	10	20	110
1965	15	9	20	114

*Question Hour.* It is now a developed institution of parliamentary control over the executive in India. It forms the most interesting and lively part of the day's proceedings in Parliament, because it affords an opportunity to members of Parliament to subject the executive to critical examination both in respect of its policy and actions. During the question-hour, every aspect of governmental policy and administration is subjected to the scrutiny of the private members. There are three types of questions which are asked by the members : starred, unstarred and short notice questions. It is an important weapon in the hands of members of expressing concern and exercising control over the varied aspects of the country's economic situation. The two important purposes of asking questions are : (i) seeking information, and (ii) bringing to the notice of the government cases of maladministration and wasteful expenditure.

*Adjournment Motion.* It is 'a motion for an adjournment of the business of the House for the purpose of discussing a definite matter of urgent public importance with the consent of the Speaker.' Rules of Procedure in this respect lay down the method, restrictions and other conditions regarding the adjournment motion. The matter sought to be raised by such a motion must (a) relate to a single specific matter ; (b) must not be couched in general terms nor cover a great number of cases ; (c) have a factual basis ; (d) be urgent and must have arisen suddenly in the nature of an emergence ; and (e) be of public importance. Support by at least 50 members of the House is essential for admitting the motion. Many adjournment motions are moved in the Indian Parliament, but only a few are admitted. It may be noted that the use of adjournment motions

device for discussion of matters of urgent public importance has been permitted sparingly in the post-independence period, because the passing of such a motion amounts to a censure motion. Adjournment motions have now largely been replaced by other kinds of discussions.

*Resolutions.* Any member of the House (or a minister) can move resolutions on matters of general public interest. A resolution requires fifteen day's notice and its admissibility is determined by the Speaker. It may be in the form of a declaration of opinion, or a recommendation, an approval or dis-approval of an act or policy of Government or a request for action. After a resolution has been moved, any other member may seek an amendment to the resolution, amendments require one day's notice.

*Half-an-hour Discussion.* Such discussion provides an opportunity to members to pursue further an answer given in reply to a question during the question hour. A member who wants to pursue the subject matter of a recent question has been given the right to request for a half-an-hour discussion. Three days' notice is required for such a request, which must be supported by a note explaining the reasons for desiring to raise discussion and the signature of two other members. The Speaker decides whether or not to allow the discussion. If the discussion is allowed, it may take place at the end of a normal day's sitting. A procedural peculiarity of such a discussion is that there is no formal motion before the House and no decision or vote is taken at the end. In case there is no quorum, a minister can lay a statement on the Table of the House with the permission of the Speaker.

*Discussions on Matters of Urgent Public Importance for Short Duration.* The relevant rule of procedure provides an opportunity to a member to raise discussion on a matter of urgent public importance if admitted by the speaker. The procedure followed in this case is similar to that for the half-an-hour discussion except that the time allotted may be up to two and a half hours.

*Calling Attention Notice.* This is a device which gives an opportunity to a member to demand an explanation or a clarification from a minister on matters of urgent public importance at short notice. The Speaker determines whether such a notice is to be admitted or not. If he admits the notice, the matter comes up before the House at once, and the minister makes a brief statement or asks for time to make a statement at a later hour or date. This device of discussion is an innovation of the Indian Parliament and has proved very popular and useful.

Notices regarding the following matters have generally been admitted by the Speaker : (i) incidents which involve a question of national security and unity of the country, (ii) serious food, drought or flood situation in the country ; (iii) issues involving maintenance

of essential services ; (iv) incidents involving a matter of law and order in a Union Territory ; (v) serious developments in states or union territories involving proper functioning of the constitutional machinery ; (vi) serious issues involving production of important commodities ; (vii) border incidents with a neighbouring country ; (viii) serious incidents in foreign countries involving Indian diplomats or nationals ; (ix) matters involving important issues pertaining to relation between the Central Government and the State Governments ; and (x) issues involving action on the part of a foreign government which would adversely affect the interests of India.<sup>1</sup>

*Parliamentary Control over Finances.* The most important scrutiny of Parliament concerns finances of the country. Administration comes under the close scrutiny of Parliament when the budget is under discussion. Each Ministry, Department, office and sub-office is on trial. The demands for grants are sanctioned only after their activities during the previous year have been closely examined and discussed. All sorts of matters ; question of policy, economy, grievances, complaints, adequacy or inadequacy of projects, schemes and outlays can be raised and the minister has to give satisfactory reply. In addition to budget discussions, control over finance is mainly exercised through the three important financial committees—the Public Accounts Committee, the Estimates Committees and the Committee on Public Undertakings. This aspect has been discussed at length in the following section.

Finally, control over finance is also exercised through audit. The Parliament is the fund raising as well as fund granting authority. It, therefore, also ensures that money is spent in accordance with the grants sanctioned by it. This control over public expenditure is exercised on behalf of the Parliament by the Comptroller and Auditor-General of India. The Department headed by him audits expenditure on behalf of the Parliament. The Auditor-General in conducting an audit of expenditure examines whether the following conditions have been fulfilled : (1) that the expenditure is covered by sanction, whether special or general, accorded by competent authority ; (2) that it conforms to the relevant provisions of the Constitution or laws thereunder and with financial rules and regulations framed by the competent authority ; and (3) that it is covered by provision of funds authorised by the competent authority and is within the purpose for which the grant was intended to provide.

<sup>1</sup> Kaul and Shakhder, *Rules of Procedure and Conduct of Business in Lok Sabha*, 369.

### III. PARLIAMENTARY CONTROL THROUGH COMMITTEES

Besides the various devices discussed in the preceding section, Parliament also exercises control over the different fields of public administration through several kinds of committees. A brief account of these committees and the ways in which they exercise control over administration is as follows :

#### FINANCIAL COMMITTEES

By far the most effective parliamentary control over the economic affairs of the Government is exercised by the three Financial Committees, viz., the Estimates Committee, the Public Accounts Committee and the Committee on Public Undertakings. The first two are the oldest of the three, as they existed even before the attainment of independence. These Committees have the power to collect information from departmental witnesses. The Public Accounts Committee is guided by the Comptroller and Auditor-General in its activities. Thus, they function as the eyes and ears of Parliament in financial and economic matters. The Estimates and the Public Accounts Committees play a complementary role. The one examines the estimates with reference to the policy of the Government and the other secures the accountability of the expenditure voted by Parliament.

They do not only exercise a control over national expenditure, but also, particularly the Public Accounts Committee, subject the administration to a severe ordeal to test efficiency, integrity, prudence, and regard for public good. The scrutiny is, of course, post-mortem, but it exposes many irregularities in budgeting, financial and expenditure control, irregular expenditure, malfeasance and even corruption. The Estimates Committee examines the estimates within the framework of Government's policy. It can visit projects and observe what is happening and draw conclusions. One advantage of this committee is that it can have a direct and first-hand knowledge of things happening, which would dispel distrust of the officials, and can get to know the practical difficulties. This aspect of parliamentary control and the detailed functioning of these committees will be found in the Chapter entitled Financial Administration.

The recently constituted Committee on Public Undertakings discharges the functions of both the Estimates Committee and the Public Accounts Committee in relation to public enterprises and examines if their affairs are being managed in accordance with sound business principles and commercial practices. Creation of this committee has silenced the criticism that government has taken away large-scale public sector undertakings from the purview of parliamentary scrutiny under the plea of autonomy for public

sector functioning. Thus public sector bureaucracy is also held accountable to Parliament through this committee, which is performing the functions of Estimates and Public Accounts Committees in the field of Public Sector Undertakings.<sup>1</sup> The details of its constitution, functions and working have been given in the chapter entitled 'Public Sector Undertakings'.

#### OTHER COMMITTEES

Apart from the financial committees of the Indian Parliament, there are other scrutiny committees to whom the administration is answerable. The most important of these are (i) Committee on Government Assurances, and (ii) Committee on Welfare of Scheduled Castes and Scheduled Tribes.

*The Committee on Government Assurances.* In its rules of procedure, the Lok Sabha has provided for such a Standing Committee. It performs the useful and essential task of watching, on behalf of the Lok Sabha, the implementation of various promises and assurances given by ministers on the floor of the House. The committee was created on 1 December 1953 to fulfil a strongly felt need for devising some effective mechanism, which would ensure that Government did not make use of such assurances for evading criticism by members. The committee, therefore, reports on (a) the extent to which such assurances, promises, undertakings etc. have been implemented, and (b) where implemented, whether such implementation has taken place within the minimum time necessary for the purpose. The committee consists of 16 members nominated by the Speaker, their term of office being one year. The Committee on Government Assurances since its very inception has been one of the most active and purposive committees of the Lok Sabha. The ministers have been giving assurances to Parliament in response to legislative criticism or demand for information. The directives of the Speaker in this regard also become as good as assurances. The Minister for Parliamentary affairs takes special care for their implementation. The record of the Lok Sabha in this regard has been quite impressive, as would be evident from the following table :

#### PARLIAMENTARY ASSURANCES EXTRACTED BY THE PARLIAMENT AND IMPLEMENTED BY THE EXECUTIVE IN 1963<sup>2</sup>

Ministry	Extracted/Sessions			Implemented/Sessions		
	4th	5th	6th	4th	5th	6th
Defence	16	3	8	12	1	—
Education	24	12	12	14	2	—
Finance	24	14	20	18	5	—
Home Affairs	38	23	14	30	9	1
Industry	29	20	3	21	11	—
Railways	10	2	5	9	2	—

<sup>1</sup> C. P. Bhambhri, *Public Administration in India*, 219.

<sup>2</sup> See P. D. Sharma, *Parliamentary Control over Administration in India*, *I. J. P. S.*, April-June 1976, 105-06.



*The Committee on Subordinate Legislation.* The chief instrument through which Parliament exercises control over the delegated legislation in India is the Committee on Subordinate Legislation. The committee in India has been functioning since 1953 on the model of the Select Committee on Statutory Instruments in the British House of Commons. It consists of 15 members nominated by the Speaker for one year; in accordance with the established convention all political parties are represented on the committee in proportion to their strength. A Minister cannot be a member, and the Chairman is appointed by the Speaker, but in case the Deputy Speaker is a member of the Committee, he *ipso facto* becomes its chairman. The Committee has the usual power to require attendance of persons or production of papers or records. The functions of the committee are to scrutinise and report to the Lok Sabha whether the powers to make regulations, rules, by-laws etc. conferred by the Constitution or delegated by Parliament are being properly exercised within such delegation. It verifies in each case that the rule is within the framework of the Act and it does not attempt to bring in a substantive matter. It also verifies that the rules have been laid on the Table at the earliest opportunity and have been laid for the specified period. Further details are given in the following section.

*The Committee on Petitions.* It is unique in the sense that it serves as a link between the aggrieved citizens, administration and Parliament. Any citizen, who feels that he has a grievance against the administration which has not been redressed through other channels, can approach the Parliament directly. If his grievance or suggestion affects a matter of public importance, his petition is received by Parliament and sent to the committee for examination and report. In case the grievance is personal or individual in character, it is directly sent to the committee, which looks into it. The committee may call upon the concerned department of government to furnish the facts about the case and may hear the individual and the representative of the administration before coming to its conclusion. Whatever its recommendations may be the administration has to give proper consideration to the matter.

‘Administrative accountability to Parliament thus brings in its fold administrative responses to the demands and grievances of citizens, and the committee’s reactions thereto act as a soothing balm to the citizens and vindicate the right approach of the administration as the case may be.’ It has played a vital role in securing redress of public grievances, whether contained in petitions presented to the House or in the representations relating to purely personal or individual cases. But the scope of its functions is circumscribed by the rules of procedure and directions issued by the Speaker thereunder.<sup>2</sup>

*The Committee on the Welfare of Scheduled Castes and*

<sup>2</sup> R. B. Jain, *Contemporary Issues in Public Administration*, 339.

*Scheduled Tribes.* This is a new Committee of the Parliament and consists of 30 members—20 from Lok Sabha and 10 from Rajya Sabha—elected in accordance with the system of proportional representation by means of single transferable vote. The term of the committee is two years from the date of the first meeting of the committee. The functions of the committee are : (i) to consider the report submitted by the Commissioner for Scheduled Castes and Scheduled Tribes and to report to both the Houses as to the measures that should be taken by the Union Government in respect of matters within its purview including the administration of the Union Territories; (ii) to report to both the Houses on the action taken by the Union Government and the Administration of the Union Territories on the measures proposed by the Committee; (iii) to examine the measures taken by the Union Government to secure the representation of the Scheduled Castes and the Scheduled Tribes in services and posts under its control; (iv) to report to both the Houses on the working of the welfare programmes for the Scheduled Castes and the Scheduled Tribes in the Union Territories; (v) to consider generally and to report to both the Houses on all matters concerning the welfare of the Scheduled Castes and Scheduled Tribes which fall within the purview of the Union Government including the administration of the Union Territories; and (vi) to examine such of the matters as may seem fit to the Committee or are specifically referred to it by the House or the Speaker.

*Consultative Committees of Parliament.* During the term of the first Lok Sabha itself, it was felt necessary to devise some way for keeping the Members of Parliament informed of the working of the Government in its various departments and provide them opportunities for discussing with the Ministers, in an informal manner, broad policies of the Government. This was done through the establishment of Informal Consultative Committees of Parliament in 1954. The purpose of these Informal Committees is to enable the Ministers to meet and discuss informally with Members of Parliament matters of general importance concerning their respective Ministries and thereby help them to have a closer understanding of the issues and principles involved and of the working of the Ministries and Departments of Government.

But this demand for popular control over the activities of the bureaucratic machinery thinly conceals the real desire to have an increasing measure of say both in policy formulation and decision-making. This is clearly reflected in the demand for the constitution of special committees of Parliament (and State Legislatures) for different Ministries or Departments, besides the need for increasing the functions and powers of three finance committees of the Parliament. 'The constitution of these committees is suggested since Parliament cannot exercise effective control over the various Ministries even after

enlarging the functions of the three committees. Another advantage that is envisaged is that in small committees, representatives of different political parties are likely to be more constructive in their approach than during the discussions in Parliament. They are likely to have a more realistic approach to the problems likely to be encountered in implementation of the suggested course of action. In England, special committees have been constituted recently for Agriculture and Industrial and Scientific Research. In the United States, the Congress has specialised committees where the administrator has to give his testimony.<sup>1</sup>

Doubtless there are innumerable advisory committees but their impact or influence is negligible. Membership is more an honour or patronage conferred and the views of members reach only one side of the administrative machinery. The conclusions reached or recommendations are sent to the Ministry or Department concerned and thereafter they pass through the sludge and rarely any quick decisions are taken. Sometimes the same subject is discussed over and over again at the meetings of the advisory committees and no pains are taken because the deliberators lose faith in this method. On the other hand, the members of the Parliamentary Consultative Committees would raise discussions in Parliament if the Ministry does not take proper action on their recommendations and would also have direct access to the Minister at all times.

As far as is known, there are no Legislative Consultative Committees at the State level. These Parliamentary or Legislative Consultative Committees should have panels of non-official experts for consultation. Members of the University staff, retired civil servants or professional people who have specialised knowledge of any specific subject should be included in the panel. This will bring into beneficial use the knowledge of persons outside the domain of Parliament or administration and it will also enable academic scholars or theoretical experts to know the living issues of administration. To take one example, the question of nationalisation of banks or even social control is a difficult matter, which cannot be decided unilaterally or even argued only between the policy-makers and the banking interests.<sup>2</sup>

#### IV. DELEGATED (SUBORDINATE) LEGISLATION

##### DELEGATED LEGISLATION AND NEED FOR IT

It is a well-known maxim that legislation is the function of the legislature, and not of the administrative branch. But under the complex conditions of present-day society, it has become almost absolutely necessary for legislatures in most of the states to delegate

<sup>1</sup> B. Mehta, *op. cit.*, 110.

<sup>2</sup> N. M. Mudaliar, *op. cit.*, 22.

some of its legislative authority to the executive. The various statutes passed by the legislatures vest the executive with the power to make rules and regulations under their authority. The rules and regulations and Orders-in-Council made in this way are known as 'Delegated Legislation'. As a matter of fact, it is a kind of subordinate legislation or sub-legislation by the executive. The power to make delegated legislation is ordinarily granted to the Ministers of the Crown in Britain, to the Union or State Governments in India, and to the departments or other important agencies, such as the regulatory commission in U. S. A. It is also granted to local authorities, universities, professional boards and councils, like Medical Council in India.

With reference to its content and purpose, it may be of three kinds—(i) contingent, (ii) supplementary or subordinate, and (iii) interpretative. Contingent type of delegated legislation is made use of when the application of the statute or enabling Act is made by the legislature to depend on the existence of certain facts or conditions and the power to do so is delegated to the department or administrative agency to determine the existence or non-existence of those facts and conditions. Supplementary or subordinate legislation is meant to fill up the details of a law, passed by the legislature only in broad outlines. Most of the laws provide for this type of delegated legislation. Interpretative delegated legislation, "as is evident from the name itself, is meant to interpret some provisions, that is, clarify and explain the provisions of the law which it is intended to interpret.

It has never been possible, and it is less possible to-day, for legislature to provide in the laws for every emergency or to put in every detail required to make the law technically effective. The reasons for this are not far to seek. First of all, modern legislatures are hard pressed for time; and delegated legislation relieves them of much of their burden. Secondly, matters to be delegated are increasingly complicated and technical. A legislature entrusts the drafting of detailed provisions, which are usually of a highly technical character, to the agencies most familiar with the conditions to be met. So it is found necessary to delegate power to make rules and regulations to administrative departments or even to non-governmental bodies, e. g., professional bodies like the Medical Council and public utility companies. Thirdly, it permits great flexibility in adapting rules and regulations to the different classes of individuals or interests affected. Fourthly, it makes possible the prompt modification of a provision as soon as experience demonstrates that this is unsatisfactory.<sup>1</sup> Fifthly, it makes consultation with the interests affected possible, for which the legislature cannot arrange conveniently.

<sup>1</sup> W. F. Willoughby, *The Government of Modern States*, 322.

Delegation of legislative power has become a necessary evil in a modern state. Ideally speaking, there can be no delegation of what is essentially a legislative power. But modern legislatures have such a load of work that it is practically impossible for them to legislate in all details, so they are forced to delegate their trust and authority. This is the reason why a rigid scheme of separation of powers has not been accepted in the Indian Constitution. It was in the Delhi Laws Act case that the problem of delegated legislation was fully thrashed out. C. J. Kania,, referred to the oft-quoted passage of J. Ranny, 'The true distinction therefore is between the delegation of power to make the law which necessarily involves a discretion as to what it shall be and conferring an authority or discretion as to its execution to be exercised under and in pursuance of the law. The first cannot be done; to the latter no valid objection can be made.'

#### ADVANTAGES AND DISADVANTAGES OF DELEGATED LEGISLATION

The advantages of delegated legislation may briefly be stated as :

- (1) It relieves the pressure on the time of the legislature; which can leave the details and concentrate on general principles and important issues of policy.
- (2) The technical details of the legislation can be better worked out and supplied by the experts in the department of administrative agency, which is authorised to make rules and regulations.
- (3) Delegated legislation provides flexibility.
- (4) Subordinate legislation can be framed in consultation with the interests affected.
- (5) Making of experiments is possible through delegated legislation in some fields.
- (6) It is very necessary and useful in times of emergency caused by war or internal disorder, etc.

However, delegated Legislation is not without faults. It has been criticised on several grounds. First, liberty of the individual is likely to be adversely affected, because it vests power in the hands of the administrative authorities. It has been argued by Lord Hewart in his famous book *New Despotism* that the growth of delegated legislation has led to the combination of administrative and Legislative powers in the hands of the executive in violation of the doctrine of the separation of powers. Secondly, there is the danger that the legislature may delegate too much power and may not provide for adequate scrutiny by itself of the subordinate legislation. Thirdly, delegation may be in such terms as to exclude the control of the courts thus depriving the individual of the protection by the courts. Fourthly, administrative agencies may not consult all the interests,

particularly the unorganized people.

Care should, therefore, be taken that what is in fact left to the executive is not matter of substantive legislative principle. The legislature should also see that this function is vested in an administrative board or commission, rather than in a single bureau head. It should also provide for some kind of supervision and check over this type of legislation. Further, the delegation of rule-making power by the legislature should be definite and not vague or of a sweeping nature. Finally, legislative power should not be delegated for abnormal or unusual purposes, such as power to legislate on matters of policy or to impose taxes or to amend parliamentary legislation even in a remote manner.

#### DELEGATED LEGISLATION IN INDIA

It has to be remembered that there is no specific prohibition in the Constitution of India against delegation of legislative powers. The Union Parliament and State Legislatures enact scores of statutes every year. Under their broad provisions power is granted to the governments, the professional bodies, universities, commissions etc. to make rules and regulations. The volume of this type of subordinate legislation has been steadily growing in India. V. N. Shukla, in his commentaries on the basis of several cases summarises the limits of statutory delegation as follows : 'It is now settled that there is a limit beyond which delegation may not go. The limit is that essential powers of legislation cannot be delegated. The essential legislative functions consist in the determination of a choice of the legislative policy and of formally enacting that policy into a binding rule of conduct. The legislature, therefore, may not delegate its functions of laying down policy to an outside authority, in respect of a measure and its formulation as a rule of conduct.'

The idea of creating a Committee on Subordinate Legislation had been broached as early as 1950. The first committee was nominated by the Speaker in 1953. Originally, it consisted of 10 members, now its strength is 15, including the Chairman. Its function is to scrutinise the rules and regulations made in pursuance of the authority delegated by Parliament. Work of the Committee can conveniently be noted under three heads : (1) evolution of a uniform pattern of the terms of delegation contained in the enabling statutes; (2) improvement in the publicity to the rules made and of the language employed so as to make it easily intelligible to the people; and (3) scrutiny of the rules hitherto made so as to develop a sort of jurisprudence of delegated legislation and a guide to what is good and sufficient and what could be considered objectionable.

The committee examines each rule and order and reports on the following aspects : (a) whether it is in accord with the general objects of the Act pursuant to which it is made; (b) whether it

contains matter which in the opinion of the committee should more properly be dealt with in Act of Parliament; (c) whether it contains imposition of taxation; (d) whether directly or indirectly it bars the jurisdiction of the courts; (e) whether it gives retrospective effect to any provision in respect of which the Act does not expressly give such power; (f) whether it involves expenditure from the Consolidated Fund or the Public Revenues; (g) whether it appears to make some unsound or unexpected use of the powers conferred by the Act pursuant to which it is made; (h) whether there appears to have been unjustifiable delay in its publication or laying it before Parliament; and (i) whether for any reason its form or purport calls for any elucidation.

The committee submits its report to the Lok Sabha and brings to its notice any other matter relating to an order which in its opinion deserves the notice of the House. The Speaker may issue such directions as he may consider necessary for regulating the procedure in connection with the consideration of any question of subordinate legislation in the committee. The committee's reports are not discussed in the House but the Government attaches to them the same weight and respect as if they have the imprint of the whole House. The Ministries generally try to implement the committees' suggestions. In case a Ministry finds it difficult to give effect to any suggestion, it places its views before the committee, which may, after considering the Ministry's views, present a further report to the House if it thinks fit. In 1964-65, the committee considered 1339 'orders' and held three sittings. The observations of the committee generally emphasized the following defects; curtailment of the jurisdiction of the courts; indefinite, complicated and ambiguous wording; contravention of the provisions of the parent Act; undue delay between the publication of 'order' and its being laid on the Table of the House.

The Indian system provides two safeguards. First, it gives Parliament an opportunity to discuss the merits of the rules and recommend that a particular rule may be annulled or modified. Secondly, the Committee on Subordinate Legislation verifies in each case that the rule falls within the framework of the Act and it does not attempt to bring in a substantive matter. The committee further verifies that the rules have been laid on the Table at the earliest opportunity and have been laid for the specified period. These safeguards ensure that the legitimate powers of Parliament are not diluted and the executive is not accused of new despotism. The volume of the Committee's work is illustrated by the fact that in the closing four months of 1959 it held three sittings and considered one hundred and thirty new orders. In examining the committee's reports members are especially interested in the extent to which the committee discharges its role through an interchange of views and

counsel with the ministries, sometimes urging them not to delay in issuing the regulations called by a recent law, sometimes in receiving an assurance that certain changes or conditions suggested by the committee will be included in a future revision of the regulations.<sup>1</sup>

It is believed that when Parliament delegates powers to a minister and his officers, it rarely suspects that it is producing a despotic power. The concern is therefore expressed that the people have to be saved from the officials. In India socialistic legislation—has been increasing—like agrarian legislation, industrial licensing, nationalisation of transport, food procurement etc., and hence caution is necessary that too much power is not concentrated in the hands of officials. For example, very petty officials are invested by rules with powers of entry and search. Similarly, powers to refuse to grant or renew licences or permits are bestowed without an obligation to record reasons. The officials have no training in judicial work and so it is just possible that a judicial frame of mind is not brought to bear on the work. The Committee on Subordinate Legislation of the Parliament no doubt scrutinises the rules made under Acts placed before Parliament, but it is too much to expect that it would have time to go into the rules in detail. Similarly, wrong application of rules or decisions thereunder would go unnoticed unless some party challenges them in a court of law. It is a very difficult matter for an ordinary citizen to go in appeal or take out a writ petition in cases of miscarriage of justice or wrong done.<sup>2</sup>

On the lines of the Parliament Committee on Subordinate Legislation State Legislatures have also created such committees in the constitutions and functions of which there are very minor differences from State to State. To take an example, in the legislature of Andhra Pradesh according to Rule 192 a Committee on Subordinate Legislation is constituted every year. This Committee consists of 12 members from the Assembly and four members from the Legislative Council. The Committee is empowered to take evidence or require any person to produce any papers or records. The function of this committee is to scrutinise and report to the legislature whether the powers delegated have been properly exercised.

The Committee is required in particular to consider : (1) whether the subordinate legislation is in accord with the general objects of the Act pursuant to which it is made; (2) whether it contains matter which in the opinion of the Committee should more properly be dealt within an Act of the Assembly; (3) whether it imposes taxation; (4) whether it directly bars the jurisdiction of the courts; (5) whether it gives retrospective effect to any of the provisions in respect of which the Act does not expressly give any such power; (6) whether it involves expenditure from the consolidated fund or

<sup>1</sup> See Arthur W. MacMahon, *Delegation and Autonomy*, 93-94.

<sup>2</sup> N. M. Mudaliar, *op. cit.*, 78.



the public revenues; (7) whether it appears to make some unusual and unexpected use of the powers conferred by the Act, pursuant to which it is made; (8) whether there appears to have been unjustifiable delay in the publication or laying of it before the legislature; and (9) whether for any reasons its form or purport calls for any elucidation. If the scrutiny committee is of the opinion that any rule should be annulled wholly or in part or amended in any respect it reports its opinion to the Assembly. The report of the Committee is usually placed before the Assembly.

The tendency to introduce skeleton bills should be avoided. The drafting of delegated legislation must be improved. The system of publication requires to be overhauled. Prior publication and a good publicity, of at least important subordinate laws, is very necessary. Copies of instruments should be numbered and serially published. They should be made readily available. Periodical consolidation and systematic publication is also necessary. Instruments cannot be fully effective if every one affected by them does not know their essence. If the purpose of law is compliance, publicity will obviously facilitate it. The draft rules and regulations, particularly those which are important and affect a considerable section of the society, should not only be so published in the draft form but also be sent for proper scrutiny to a permanent body such as the State Law Commission. They could also be profitably sent to various Bar Associations and improved in the light of the criticism and comments offered.<sup>1</sup>

## V. CONCLUDING OBSERVATIONS

In addition to the various devices for the exercise of parliamentary control over administration, which have been discussed in sections II and III, we should take note of two other devices : (a) the deliberations inside the ruling party and (b) the press. When parliamentary opinion divides itself on party or political lines, the party in power has to support the government, but this does not mean that it is not influenced by public opinion or by the reasonable demands of the opposition. Its forum is not the floor of the House but its own meetings or those of its executive committee. The discussions and developments in the party meetings influence the government in shaping its policies or in responding to public opinion. The press plays an important part in the parliamentary life of the country. It is through the press that Parliament enjoys so much prestige in the public eye and it is with the help of the press that Parliament is able to control the executive effectively. It is for this reason that the

<sup>1</sup> G. R. Cokbote, 'Delegated Legislation and its Supervision in Andhra Pradesh', *I. J. P. A.*, Vol. VIII, No. 3, 29-90 and 295. For judicial control over delegated legislation see Section III of the following chapter.

press has been called 'an extension of Parliament'. Most of the raw material for parliamentary questions, motions and debates comes from the daily press. Simultaneously the press keeps the public informed of what is happening in Parliament to the utmost detail. The administration is always afraid of the press more than Parliament.<sup>1</sup>

The emergence of the Prime-Ministerial Government in 1972 and a massive popular following for the leader of the nation and the government very much changed the power structure in the country. In such a situation the strong executive must have been matched with a strong legislature, but the character and strength of the opposition groups in the Indian Parliament (and the State Legislatures) was such that they could not provide a vigilant counterweight to the powerful executive. This was particularly so prior to March 1977, not because the opposition consisted of diametrically opposite political trends. While some parties sought to build pressure on the Government to move rightward, others sought to exert pressure on the Government to move leftward. In such a context, the role of the ruling party assumed special significance. The parliamentary control was greatly weakened, because of the inability of the opposition to present a concerted, effective and constructive challenge to the party in power.

Parliamentary control was at its lowest ebb during the emergency, because (a) most of the members of the opposition were sent behind the bars; and (b) several restrictions had been imposed on the freedom of the citizens and the press. The speed with which emergency laws were passed and regulations made left little room for study and debate in Parliament. It became a difficult task for individual members of Parliament to keep a close watch over the exercise of emergency powers by the executive. All these factors tended to minimise parliamentary control over the executive during the emergency. The result was that the administration committed all sorts of excesses. It was largely on account of the fear of the executive and excesses of the administration that led to the downfall of the ruling party in March 1977. But, in the present Lok Sabha, the opposition is strong enough to keep the executive on the right track.

With a view to securing greater parliamentary control on the administration, it has been suggested by some that we should adopt the system of investigating committees of Parliament on the lines of the Senate Committees in the USA. But this suggestion may be criticised on the ground that such investigating committees could violate the doctrine of ministerial responsibility and the nature of cabinet government as also that of anonymity and neutrality of the

<sup>1</sup> S. L. Shakhder, *Administrative Accountability to Parliament*, *I. J. P. A.*, July-Sept. 1966, 362-63.

civil service. Moreover, Parliament has, at its command, several means for controlling the administration—the Public Accounts and Estimates Committees, the Committee on Subordinate Legislation, the Committee on Government Assurances, the power to criticise the policies and actions of the administration on the floor of the House, and ad hoc committees or commission of enquiry. But it is necessary to devise appropriate methods for more effective parliamentary control on the administration, so the suggestion of having committee on specialised subjects should be given careful consideration.

The need for an effective and impartial investigating machinery on the lines of the Ombudsman in Sweden, Denmark and New Zealand, for public grievances and for redressing administrative wrongs and excesses has been accepted in India. The creation of such institution may be the real solution of the various problems which arise in respect of injustice being done in particular cases. It would help in securing to the common citizen a forum wherein his grievances can be effectively ventilated. Through this institution the Parliament would be able to function effectively in individual cases. A detailed discussion of this subject has been given in Chapter 20.

For making the working of the Committees on Estimates and Public Undertakings more efficient and meaningful Shri Shukla suggests as follows: The Committees on Estimates and Public Undertakings are two important committees of Parliament. Their reports have been acclaimed as useful and instructive and their recommendations are given the utmost consideration and careful thought by the administration. But they have such enormous work to do that they are not able to complete scrutiny of the entire administrative machinery within the life-time of one Lok Sabha. It is necessary that in order that their examination is continuous and all pervading they should work more and more through sub-committees having more or less the powers of full committees in certain respects so that the whole administration is covered at least twice within the life time of one Lok Sabha. This is necessary if the parliamentary scrutiny is to be strengthened and made more efficient.<sup>1</sup>

Parliament as a sovereign body has a right to supervise, direct and control the administration, but a distinction has to be made between administration as represented by the Minister and administration as represented by the administrator. Parliament is absolutely right when it assails a Minister for an administrative lapse and can even throw him out by a vote of no-confidence against the cabinet, but criticism of the conduct of public servant by the Parliament cannot be justified and covered under parliamentary sovereignty in a situation for which the latter may or may not be responsible. We know that some very distinguished civil servants were subjects of

<sup>1</sup> *Ibid.*, 372.

criticism in our Lok Sabha in the recent past. Their neutrality was challenged and their integrity was interrogated. 'Naturally this is highly demoralising for a public servant and for that matter to all public servants of integrity and devotion to suffer public defamation without any right to offer explanations. The British parliamentary system is based on the doctrine of ministerial responsibility. Minister is responsible for all that his officials do except in one case.'

But at the same time it must be stressed that in a democracy, the Parliament representing the people and elected by the people must have the upper hand. 'It is all supreme. But in the interest of smooth running of democracy of which Parliament is the custodian, healthy conventions will have to be developed to govern its relationship with the administration or the administrator. For lasting results citizens, from whom both the legislator and the civil servant are recruited, will have to be given intensive civil education. Here it must be added, however, that it is not for Parliament to 'control' administration. Control is an active function of giving direction and guidance and it is a continuous process. Such control is the proper sphere of the Minister. The role of Parliament should therefore be passive. Parliament should not interfere in the process of administration, but hold the Minister answerable and accountable for good and efficient administration.'<sup>1</sup>

<sup>1</sup> B. Mehta, *op. cit.*, 112.

## CHAPTER VII

# JUDICIAL CONTROL OVER ADMINISTRATION

### I. NATURE OF JUDICIAL CONTROL

The verb 'to administer' means to put the law into effect. Enforcement of law is, indeed, one of the most important functions of public administration. In this daily work of enforcing the law, the administrator is constantly called on to make decisions. Administrative action has a very wide connotation; it is the action of any administrative organ of the State. As a matter of fact there are three types of controls over administrative action : (1) legislative, (2) executive, and (3) judicial. Of all these three types of controls the first two do not provide any legal remedies or redress to the parties whose rights or legitimate interests are adversely affected by administrative action. This is only possible through judicial control or action taken by the courts. 'The principal controls of public administration,' that deserve the name of remedies are those that operate through the courts. Of the legislative and administrative (or executive) controls the only one that may properly be called a remedy is the administrative appeal.<sup>1</sup> The courts stand as guarantors of legal and fair behaviour by administrative agencies in regulating the conduct of the individual.

For the establishment of a proper judicial system, two basic features are necessary. First, the constitution should guarantee the right of approach (to the citizens) to the courts of law. Article 32 of our Constitution prohibits the denial to any person of the right of free access to the courts and to the use of the judicial process. This is one of the fundamental rights of the citizen, not to be touched in any way except in a state of emergency declared under the Constitution. The exercise of this right is further safeguarded by the adoption in the judicial system of a number of common writs (discussed in the following section). The second basic feature is the need for objective impartiality in the trial of the case before the court and in the court's judgment upon the matters in issue. The impartiality must extend not only to disputes between private parties, but even more must it cover, and be seen by all to cover, disputes between the citizen and

<sup>1</sup> A. T. Markose, *Judicial Control of Administrative Action in India*, 11.

the state.<sup>1</sup> In short, the judiciary should be independent and impartial.

In the widest sense 'judicial control' includes all legal rights of control possessed by the judiciary for scrutinising the legality of every activity of the legislative and administrative organs or authorities. In the narrow sense the term is used to denote all legal controls that the ordinary courts of a country exercise over administrative action of every kind. Some of the important judicial remedies, as classified by A. T. Markose are : (1) Public remedies—prosecution of public officers. (2) Private remedies : (a) through the criminal courts, and (b) through the civil courts (i) suits against the Government, and (ii) civil suits against public officers. (3) Extraordinary legal remedies—various kinds of writs.

In Britain (and Canada) there are five different methods by which the individuals can bring the courts of justice to control administrative actions : (1) relator action (laying information before the Attorney-General, enabling him to take action), (2) action in damages, (3) disobedience, (4) statutory appeals, and (5) prerogative remedies through supervisory jurisdiction or judicial review. Brian Chapman lists four major aspects of controlling public administration. They are : (1) Ensuring that the administration acts within the letter of the law; (2) Ensuring that the administration exercises its discretionary powers justly; (3) Ensuring that the administration accepts responsibility for any damage caused to a citizen in the performance of its normal duties; and (4) Ensuring that the administration does not abuse its power.<sup>2</sup>

In both countries there are limits to the judicial review of administrative acts. Formally judicial review does not extend to 'policy decision' (or legislation in Britain); it simply covers excess of jurisdiction or excess of power, bad faith, irrelevant considerations, procedural irregularities, improper purpose (or unreasonableness). The position in the case of India is similar. As in Britain, the Government in India takes the responsibility for the actions of its servants done in the normal discharge of their duties and defends such actions in court action. Some European countries provide for the Ombudsman system, as the people's tribunal for the abuses of executive power. The Ombudsman method is not likely to be successful except in small compact countries where literacy is high and citizen's rights and duties are both well understood.

According to Sir Ivor Jennings, 'Administrative law is the law relating to the administration. It determines the organisation, powers and duties of administrative authorities.' F. J. Goodnow broadened the definition to encompass 'that part of the public law which fixes

<sup>1</sup> S. S. Khera, *The Central Executive*, 265–66.

<sup>2</sup> Brian Chapman, *The Profession of Government*, Chap. II.

the organisation and determines the competence of the administrative authorities, and indicates to the individual remedies for the violation of his rights.<sup>1</sup> The fundamental point is that there should be rule of law, *i. e.* administrative action of all authorities should be within the limits prescribed by law and subject to judicial control.

In English-speaking countries, administrative law is not much different from ordinary law, because both are applied by the same courts on more or less similar lines. But in France there is a separate system of courts to administer and apply it, with the result that administrative law forms a separate body of law. Whereas ordinary law is enacted or codified law, administrative law is mainly case law, built up by a lengthy process of court decisions. French 'administrative law' or '*droit administratif*' has been defined by French authorities in general terms as 'the body of rules which regulate the relations of the administration or of the administrative authority towards private citizens.' France and other continental countries recognise the principle of government liability for any wrongs done by government officials to citizens. Assumption of liability by the government is obviously the fairest principle for the innocent private victim who suffers damage accidentally through the action of some administrative officer. But Britain and other English speaking Countries stick to the old dogma that 'the king can do no wrong' or that he may not be sued 'in the king's court.'

It may be said that Dicey misunderstood the French system of *droit administratif*, for it gave him the impression that administrative law was nothing but a perpetration of the inequalities between public authority and the citizen and that it therefore violated the fundamental rules of equality between government and citizen as they were implicit in the common law tradition. In interpreting the French *droit administratif* in this manner he completely overlooked that far from having buttressed and fortified the arbitrariness of government towards the citizen, the French administrative tribunals afford the individual 'almost perfect protection against arbitrary administrative action, as they recognise the principle of governmental liability for any wrongs done by the government officials to citizens.'

The French *Council d'état* is a better developed and more powerful administrative court and the adoption of some such system in India may be useful. The *Council d'état* has a double function : (1) it is Government's advisory body on legislation and law, and (2) it is an administrative court. We are here concerned only with the second aspect. The *Council d'état* is a court of first and last instance for a list of cases contained in a decree of the French Government. The list comprises actions alleging excess of power or *ultra vires*, and cases concerning the personal situation of officials appointed by decree. Ordinary civil courts have no jurisdiction in cases involving

<sup>1</sup> John D. Millett, *Government and Public Administration*, 403.

public authorities and private citizens when the operation of the public service is involved.

‘It will, of course, not be necessary or possible to copy the Conseil d’etat in all its details to suit the Indian situation. In a large democracy where administrative operations under the National Plans and controlled economy are becoming numerous and extensive, it is necessary to set up administrative courts to protect the rights of individuals. It is equally necessary for consolidating the civil services and bringing it under a judicial umbrella so that they could realise their responsibilities and rights and not look up to patrons in Government for the protection of their service rights or against the consequences of their official actions.’<sup>1</sup>

The bureaucracy is strong enough to resist external pressures without disintegrating so far as it is concerned, but it is not equipped with powers or capacity to deal with internal pressures generated by a society in transition. In this context it is the judiciary that can extend justice. ‘The judiciary is also the guardian of the rights of the Civil Services, because, notwithstanding Whitley Councils, appeal provisions to higher authorities in Civil Service Rules and mandatory consultation with the Public Service Commission for disposal of appeals in case of certain penalties, there is no machinery for relief by an independent tribunal like the Conseil d’etat in France. Relief through writs is the only recourse for remedying arbitrary injury to rights which is likely to get accentuated if political intervention in administration increases. A Civil Service which has constantly to be on its guard to protect its service rights will lose efficiency and morale and seek refuge not in processes sanctioned by law but in political sympathisers to support its claims. This is a catastrophe to be guarded against. The judiciary is thus the saviour of both the administrator and the administered.’

## II. VARIOUS KINDS OF WRITS

A good government has to be based on proper checks and balances to avoid administrative despotism. So far, India is fortunate in having a well developed judicial system with certain guaranteed constitutional rights to the individual to have recourse to the courts against the administration. These constitutional remedies cannot be whittled down or restricted by the ordinary process of legislation. The most frequently resorted to remedies are those contained in articles 32 and 226 of the Constitution, namely, the prerogative writs of mandamus, certiorari, etc. These writs have been borrowed from England by our Constitution. The judicial review around these writs is both technical and restrictive. A brief account of various writs is as follows :

<sup>1</sup> N. M. Mudaliar, *Indian Administration : Today and Tomorrow*, 102.



## HABEAS CORPUS

It literally means 'you must have the body.' It is the most important writ, by which an illegally detained person can secure his liberty. The writ is a prerogative process, remedial and mandatory for securing the liberty of a citizen by affording an effective means of immediate release from an unlawful and unjustifiable detention whether in prison or in the private custody. Under the operation of this writ a competent court has the power to direct the person (or authority) detaining another and command him to produce the body of the prisoner on the fixed day, with cause of his detention and receive whatsoever the judge awarding such writ considers proper in that behalf. Its primary function is to secure the liberation of the person detained. However, the legality of any restrictions of movement imposed on an individual can also be challenged by this writ.

## CERTIORARI

It is corrective in nature; and is issued in the form of an order by a superior court to any inferior civil court dealing with the civil rights of a person to certify the records of any proceedings of the latter to review the same for defects of jurisdiction, fundamental irregularities or procedure and for error of law apparent in the proceedings.

## PROHIBITION

It is negative in character; it can arrest the proceedings of public authority. It is a judicial writ issued by a court of superior authority to a subordinate court or administrative authority (having a duty imposed on them to proceed judicially), to prevent those authorities from continuing their proceedings in excess or abuse of their jurisdiction, in violation of the natural rules of justice or in contravention of the law of the land. It may be issued against the Ministers of the Government or against public or semi-public bodies but not against private bodies, such as social clubs.

## MANDAMUS

Literally it means, 'We command.' It is a judicial remedy in the form of an order from a superior court to any government, court, corporation or public authority to do or to forbear from doing some specific act which that body is obliged under law to do or to refrain from doing as the case may be. It acts as a general writ of securing justice, wherever justice is denied or delayed and the aggrieved person has no other suitable remedy. It is within the scope of mandamus to direct private corporations to perform their duties. It is granted when the applicant has a right to the performance of a legal duty but has no other specific or equally appropriate or convenient means of compelling its performance.

### QUO WARRANTO

It is also a judicial remedy. By this any person who illegally occupies or usurps a public office is asked to show by what right he claims it. Its purpose is to settle the rightful title to the office in question and require the unauthorised occupant to vacate the office by judicial order.

### INJUNCTION

It is a judicial process, through which a party is ordered to do or refrain from doing a particular act, which he is under law obliged to do or refrain from doing.

All the above writs etc., have been in use in the United Kingdom and the United States. The Constitution of India also provides for these extraordinary legal remedies under provisions of article 32. The article secures to all citizens the right to constitutional remedies, that is, the right to move the Supreme Court for the enforcement of fundamental rights enumerated in Part III of the Constitution of India. The Supreme Court can issue directions or writs. Parliament can also by law empower any other court within the limits of its jurisdiction to exercise all or such powers exercised by the Supreme Court.

One of the increasing tendencies noticed in India is the resort to the writ jurisdiction of the High Courts and the Supreme Court to rectify administrative irregularities. The writ applications cover all kinds of matters like appointments, dismissals, punishments, etc. of public servants, educational writs, election writs etc. This is inevitable in two circumstances, viz. (1) when there is increasing abandonment by Parliament of effective control over departmental action, and (2) the ordinary processes of law are too cumbersome to set right fundamental defects and errors. The writ jurisdiction involves the exercise of the well-known instrument of English jurisprudence whereby courts may compel the executive to act or refrain from acting injuriously to the rights of the citizen. The instruments of mandamus, certiorari, quo warranto, etc. have been regarded as extraordinary remedies or short-handed remedies for excess or failure of jurisdiction by not only judicial but also by quasi-judicial and administrative authorities.

Article 226 has been amended by the 42nd amendment to a significant extent. While the High Courts continue to enjoy their power to enforce fundamental rights, they cannot hereafter exercise jurisdiction in every case where there is an invasion of a legal right which previously, they had been doing by virtue of the jurisdiction, conferred by the expression 'for any other purpose', occurring in the original article. The expression has been deleted now. Instead, the High Courts have been vested with a restricted jurisdiction. They can exercise jurisdiction in (a) cases where there is a contravention

of a statutory provision causing substantial injury to the petitioner, and (b) cases where there is an illegality resulting in substantial failure of justice. In either case, the petitioner has to satisfy the court that he has no other remedy.

Provision has also been made in the revised article 226 that the High Courts shall not issue an interim order ordinarily except upon notice to the other side and after giving the other side an opportunity to be heard. An exception is made in certain cases where the loss or damage to the petitioner cannot be compensated in money. Notwithstanding this exception, the High Courts have no power to grant an interim order in any case where the effect of such order is to delay any inquiry into a matter of public importance or any investigation or inquiry into an offence punishable with imprisonment or any action for the execution of any work project of public utility, etc.

### III. SOME ILLUSTRATIONS

Here we are concerned with the unlawful orders and actions of the administrative authorities and not with Supreme Court's power of declaring a law or rule made under any statute as void, on the ground of its being violative of any provision of the Constitution. Consequently, the following illustrations refer to court decisions in cases arising from the orders or actions of the administrative authorities.

*Quashing of Detention Order under MISA :* The Supreme Court on 5 November 1974 quashed the detention order under MISA of West Bengal detenu Sheikh Nizammudin on the ground of unexplainable delay of two and a half months between passing of the detention order on 10 September 1973 and his actual detention on 23 November 1973. The Court ordered immediate release of the detenu.

*Release of Student Leader :* The Supreme Court on 12 November 1973 ordered the release of Shri Ram Bahadur Rai, Secretary of the All-India Vidyarthi Parishad and leader of Bihar Chhatra Sangharh Samiti, detained by the Bihar Government since 9 April under the Maintenance of Internal Security Act. The Court declared the detention as illegal, because it held the grounds of its detention as vague and irrelevant. The petitioner had earlier challenged his detention in the Patna High Court which had dismissed it, holding that the grounds of detention were neither vague nor irrelevant to the purposes of detention.

The two main grounds of detention communicated to the petitioner had charged him with being instrumental in taking a decision at various students' meetings in February and March for starting a 'Gujarat type agitation in Bihar.' The second ground was

that he had readily become a member of the 'Sanchalan' committee set up to conduct the students' agitation under the stewardship of Jayaprakash Narayan.

*Ruling on Blacklisting.* A division bench of the Supreme Court, in its judgment, held on 11 November 1974 that the relevant authority must have 'objective satisfaction' about the matter before any order blacklisting a person or firm was made, because blacklisting had the effect of preventing a person from the privileges and advantages of entering into a lawful relationship with the Government for gain. The Court allowed a writ petition filed by a firm of Calcutta. The judgment said, 'the blacklisting order involves civil consequences. It casts a slur. It creates a barrier between persons blacklisted and the Government in the matter of transactions. Blacklisting is an instrument of coercion. Since the activities of the Government have a public element, there should be fairness and equality in its treatment to members of the public.' The State, it said, could choose to enter into contract with any person. No person had the fundamental right to insist that the Government must enter into a contract with him. But a person had a right to claim equal treatment to enter into contract which may be proper, necessary and essential to his lawful living.

*U. P. Reservations Invalidated.* The Supreme Court while partly allowing two appeals by the State Government and a writ petition by a student belonging to a reserved category against the decisions of the Allahabad High Court, on 19 November 1974, declared as unconstitutional reservations made by the Uttar Pradesh Government for candidates from 'rural areas' of the State in the matter of admissions to different State medical colleges. It, however, upheld the constitutional validity of reservations made by the U. P. Government for candidates from 'hill areas' and 'Uttarakhand areas.'

The court had earlier declared as void reservations made by the State Government for students belonging to all the three categories—rural areas, hill areas and Uttarakhand areas in respect of admissions to medical colleges. The High Court had also quashed orders of the State Government making these reservations for the academic years 1971–73. On appeal the bench held that while the hill areas and Uttarakhand areas of the State were really socially and educationally backward justifying reservations in the matter of admissions to medical colleges, rural areas of the State could not be considered as socially and educationally backward warranting any such reservations by the State.

*Court's Right to go into Grounds of Detention.* In a judgment delivered by the Supreme Court in New Delhi on 26 November 1974 in the case by Khudi Ram Das challenging the validity of his detention made under the orders dated 3 November 1973 passed by the DM Malda (West Bengal) under MISA, with a view to preventing

him from acting in a manner prejudicial to maintenance of supplies and services essential to the community, the Court observed : 'It is entitled to examine the correctness of this statement and determine for itself whether there were any other basic facts or materials, apart from those admitted by the State which could have reasonably influenced the decision of the detaining authority.' The Court also said and noted that, for that purpose, the Court could certainly require the detaining authority to produce and make available to the Court the entire record of the case (of the concerned detenu) which was before it. This is the least the Court can do to ensure observance of requirements of law by the detaining authority' (under a preventive detention law like MISA).<sup>1</sup>

*Judge Cannot be retired compulsorily by Government.* The Supreme Court ruled on 8 May 1976 that a state government cannot compulsorily retire a senior member of the state Judicial Service; against the recommendation of the High Court. Since control over sub-ordinate judiciary had been vested in the High Courts, their decision in matters within its jurisdiction would bind the State.

*Governor's Order Quashed by the Supreme Court.* The Supreme Court ruled on 30 August 1976 that consultation with the Public Service Commission by a Governor in a matter of disciplinary proceedings relating to a subordinate judicial officer of the State was unconstitutional. Mr. Justice P. K. Goswami, who delivered the judgment of the Supreme Court Bench, ruled that having regard to 'the plain implication of article 235 of the Constitution' (control over subordinate courts by a High Court), Sub-Clause (c) of Clause 3, of article 320 of the Constitution (consultation with the Public Service Commission on all disciplinary matters affecting a person under the Government concerned in a civil capacity) 'is entirely out of place so far as the High Court is concerned dealing with judicial officers.'

The Bench which also included Mr. Justice Y. V. Chandrachud and Mr. Justice P. N. Singhal, quashed the orders dated 24 August 1968 made by the Governor of Haryana reinstating a subordinate judicial officer, who was under suspension in connection with a disciplinary proceeding and whose removal from service was recommended by the High Court. Before reinstating the judicial officer the Governor consulted the State Public Service Commission and acted on its advice. The Bench, after dealing with the constitutional scheme relating to control of High Courts over subordinate courts, observed that 'it is absolutely clear that the Governor cannot consult the Public Service Commission in the case of judicial officers and accept its advice and act according to it' and added : 'There is no room for any outside body between the Governor and the High Court.'

<sup>1</sup> *Indian Recorder and Digest*, December 1974.

The Governor, the Court said, in relying upon the advice of the Public Service Commission—contrary to the recommendation of the High Court in a disciplinary proceedings against the appellant—judicial officer that he should be removed—took alien considerations into account and acted ‘erroneously’ in passing the order of reinstatement based on the same. The Supreme Court was dismissing a batch of two appeals—one by the appellant-officer and another by the State of Haryana—against a full bench judgment of the State High Court taking the same view. The Supreme Court, in the course of the judgment, observed ‘that the matter should not be considered from the angle of supremacy of one organ over the other’ and that ‘that will be an entirely erroneous approach.’<sup>1</sup>

*The Case of Rajan, the Missing Kerala Student.* On 1 March 1976, the police took away P. Rajan (a final student of Calicut Engineering College) alongwith the another student, Joseph Chali. Immediately after the arrest, the principal of the college informed Rajan’s father, a retired Hindi professor. He made frantic efforts to trace his son; he approached the then Home Minister, K. Karunakaran, legislators and officials but all in vain. When the Emergency was lifted, he approached the Kerala High Court for a writ of Habeas Corpus, requesting that his missing son be produced.

On the basis of the evidence produced, the Court said the oral evidence led to the conclusion that Rajan, who had been taken from the hostel by the police on 1 March 1976 was seen later under police custody and he was tortured by six policemen. The court also said that the conduct of all those who dealt with the representations of the petitioner, Rajan’s father, including the Home Secretary and the Home Minister was ‘callous, if not highly suspicious’. The court ordered the authorities to produce the boy on a fixed date, but the authorities failed to do so, because it is presumed that the boy was murdered. As a consequence of the High Court decision in the case, K. Karunakaran, who had become Chief Minister of the State in the mean time, had to resign. Some highly placed police officials have also been arrested. K. Karunakaran and other high police officials are also to be prosecuted on the charge of perjury for having filed false affidavits.

*Supreme Court Rejected Injunction Petitions in the State Assembly Dissolution case.* The Supreme Court dismissed on 29 April 1977 the suits and injunction applications filed by some States against Assembly dissolution move. The Supreme Court order said : ‘We are unanimously of the opinion, for reasons to be mentioned later, that the suits and writ petitions should be dismissed. We accordingly dismiss the same and as a consequence reject the prayers for injunction or interim orders.’ The suits were filed under article 131 of the Constitution under which the Supreme Court has original

<sup>1</sup> I. I. P. A., *News-letter*, September 1976.

jurisdiction in matters involving disputes between the Union Government and one or more States. The writ petition by the MLA's was filed under article 32 (right to move the Supreme Court to enforce fundamental rights).

#### IV. JUDICIAL CONTROL OVER DELEGATED LEGISLATION

In the United Kingdom, the question of constitutional invalidity of delegated legislation does not arise, because the British Parliament is a sovereign law-making body. It can delegate any power to the administrative authorities. But in the United States, due to the adoption of the doctrine of separation of powers, legislative powers have to be exercised by the legislature and it cannot be delegated to any other organ of government. The position in India is that Parliament is not legally sovereign as the British Parliament is. At the same time, the doctrine of separation of powers is not incorporated in the Indian Constitution. But the power to legislate also includes the power to delegate legislative functions, within the jurisdiction of Parliament.

In the Delhi Laws Act case, 1951, Justice Fazal Ali of the Supreme Court observed as follows : (1) The Legislature must normally discharge its primary legislative function itself, and not through others. (2) Once it is established that it has sovereign powers within a certain sphere it can do everything which is ancillary to and necessary for the full and effective exercise of its power of legislation. (3) It cannot abdicate its functions ; and therefore, while entrusting powers to an outside agency it may see that such agency acts as a subordinate authority and does not become a parallel Legislature. There are only two main checks in this country on the power of the Legislature to delegate, these being its good sense and the principle that it should not cross the line beyond which delegation amounts to 'abdication of and self-effacement'. Chief Justice Mahajan was of the view that there was the principle of constitutional trust which prevented delegation of essential legislative functions. However, Justice Mukherjea expressed the view that the primary and essential duty of law-making has got to be performed by the Legislature itself, and delegation may be resorted to only as a secondary ancillary measure. It can be said, on the whole, that the majority laid down the following rules : First, the Government could be given power to extend an Act to an area with such restrictions or modifications as it thought fit. Second, the government could not be given powers to repeal or amend any law which was in force in that area at that time.<sup>1</sup>

<sup>1</sup> A. I. R. 1951, S. C. 352.

In a subsequent case (*Hari Shanker Bagla vs The State of Madhya Pradesh*, A.I.R. 1954, S.C. 465). Chief Justice Mahajan said that it was settled in the reference case by the majority judgment that the essential power of legislation could not be delegated. The Legislature must declare the policy of law, and the legal principles which are to control any given case and must provide a standard to guide the officials or body required to execute the law.

In a case, action was taken against D. S. Grewal, a member of the Indian Police Force, by the Government of Punjab, under the All-India Service (Discipline and Appeal) Rules, 1955. Under the Act the Government of India was empowered to make rules for the regulation of recruitment and conditions of service of persons appointed to an All-India Service. The delegation under the Act was contended to be excessive as no expressed policy or standard was laid down. However, Section 4 of the Act, had provided that rules immediately before the commencement of the Act were declared to be rules made under this Act. In view of this section, it was held that the delegation was not excessive, as the Section gave the necessary guidance.

The Drugs and Magic Remedies (objectionable advertisements) Act was passed with a view to prohibit or control the advertisement of drugs. The list of the diseases was given in Section 3, but the Central Government could extend the list by including any other disease or condition which might be specified in the rules made under that Act. The rule-making power was conferred on the Central Government. *M/S Hamdard Dawakhana* were proceeded against for having advertised a prohibited advertisement under the rules. The petitioners raised the question of the validity of delegation of the rule making power before the Supreme Court, in 1960. The judge, who delivered the judgment, held that Section 3 of the Act conferred unguided and uncanalised power on the executive, to add to diseases in the Schedule without laying down any specific criteria or proper standard. That part of the Section which delegated such rule-making power was declared *ultra vires*.

As a result of the decisions in the cases referred to above and other decisions of the Supreme Court, rules regarding constitutionality of delegation of legislative powers can be broadly summed up as follows :

(1) Power to legislate does not include power to delegate the legislative function.

(2) The Legislature must primarily exercise the legislative function and it should not abdicate its legislative power or efface itself.

(3) Under the Indian Constitution, the principle of constitutional trust prevents delegation of essential legislative functions.



(4) As the essential power of legislation cannot be delegated, the Legislature must declare the policy of law and the legal principles which are to control any given case and must provide a standard to guide the officials or body required to execute the law.

(5) Such policy or guidance may be contained in the preamble of the statute and/or in the provisions of the statute other than the section enabling delegation.

(6) Power to repeal an existing law is excessive delegation.<sup>1</sup>

<sup>1</sup> Judicial control over Administrative Tribunals has been discussed in Chapter 19.

## CHAPTER VIII

# UNION-STATE RELATIONS

### I. CENTRAL-PROVINCIAL RELATIONS PRIOR TO 1950

For a clearer and better understanding of the Union-State relations under the Constitution of India, it is necessary to have an idea of the relations between the Centre and the Provinces, before the enforcement of the Constitution in January 1950. The Decentralisation Commission, 1909 enumerated the following circumstances, which in its view tended towards centralization : (i) The natural tendency of strong secretariates to absorb functions more appropriate to subordinate authorities. (ii) The increasing cease, rapidity, and volume of postal and telegraphic communication. (iii) The spread of the English language, and the growth of a national feeling, among the educated classes in the various provinces. (iv) The material development of the country, the vast improvement in the means of communication within India and the high standards to which her administration was expected to conform. (v) The increasing interest taken by Parliament in the details of Indian administration, which necessarily led to a closer check over the actions of the Local Governments and of the Government of India itself.

On the other hand, the Commission put forward the following considerations in favour of decentralisation : (i) The difficulties of administering a vast country from a single headquarters and the inefficiency which resulted from a central government attempting this task; (ii) The fact that the various provinces contained diverse nationalities with different languages, traditions and interests, and were often on separate planes of development; (iii) The desirability of creating a larger sense of responsibility in provincial and local authorities; and (iv) the importance of strengthening the administration and educating the people by interesting the latter more largely in public affairs.'

#### RELATIONS UNDER THE GOVERNMENT OF INDIA ACT, 1919

The political system of India before 1919 conceived the Central and Provincial governments as an indivisible whole in which the Secretary of State occupied the highest position; he could superintend, direct and control the Central Government. The Provincial Govern-

ments had no independent existences and derived all their powers from the Centre. Legislative Councils were in theory only an enlargement of the executive Government for the purposes of law-making, and their members were styled 'additional members'.

Even after the enforcement of the Government of India Act, 1919, the Government of British India including that of the provinces remained one and unitary in form. Whatever powers the provinces enjoyed under the Act of 1919 were in the nature of delegation. Although the relationship of the Provinces with the Centre was regulated by various provisions of the Act, the Central Government had almost full powers of superintendence, direction and control over the Provincial Governments. To be precise, the control of the Government of India over the official part of the Provincial Government was unrestricted and was exercised most fully and constantly in the sphere of law and order. But the exercise of these powers was limited only to such subjects in the transferred sphere as : (a) safeguarding the administration of a Central subject; (b) deciding disputes between Provinces; and (c) safeguarding the interests of the all-India Services.

#### RELATIONS UNDER THE GOVERNMENT OF INDIA ACT, 1935

The Act of 1935 brought about a fundamental change in the status of the Provincial Governments. They attained autonomy; so the Central Government could not interfere in the Provincial affairs, unless it was authorised to do so under the provisions of the Act. Very briefly, the relations between the Centre and the Provinces may be described as follows : Ordinarily, the executive authority of the Centre and the provinces extended to matters falling within their respective control. But in the following important matters the Provincial Governments were made subordinate to the Centre : (1) The Governor-General exercised control over the Governors in those matters with regard to which the latter acted in their discretion or exercised their individual judgment. (2) The Governor-General could direct a Governor to discharge certain functions as his agent, for example, those relating to defence, ecclesiastical affairs, tribal area, etc. (3) The Governor-General in his discretion could direct a Governor for the purpose of preventing any grave menace to the peace and tranquility of the country or any part thereof. (4) The executive authority of a Province was so exercised as to secure respect for the laws of the Centre.

For the first time by the Government of India Act, 1919, the subjects had been divided into Central and Provincial. The Constitution of India, under the Act of 1935, was federal in form, so the powers of the centre and the units were precisely demarcated. Specific powers of government were defined and set out in separate lists of subjects which were allocated to the Federation and the

provinces exclusively or concurrently. The three lists were known as Federal List, Provincial List and Concurrent List. As is obvious from the titles of the Lists the Central and Provincial Governments had exclusive powers of legislation in their respective fields. But the Act also laid down that on the request of two or more Provincial Legislatures the Central Legislature might also enact a law on any subject included in the Provincial List for those Provinces only. Moreover, during the period of an emergency proclaimed by the Governor-General the Central Legislature was authorised to make laws for the whole of British India even on subjects included in the Provincial List.

On subjects enumerated in the Concurrent List, both the Central and Provincial Governments could make laws. But in order to avoid any conflict between the laws of the two Governments on the same subject, it was laid down in the Act that the Central law was to prevail and the Provincial law was to be considered void to the extent of repugnancy. If, however such a Provincial law, having been reserved for signification of Governor-General's assent or His Majesty's pleasure, had received the necessary assent, the Provincial law was to prevail in that province. Finally, any residuary subject that might crop up later, *i. e.*, not enumerated in any of the three lists could be allocated by the Governor-General in his discretion to either the Central Legislature or the Provincial Legislatures for the enactment of necessary legislation. For a brief account of financial relations see Chapter 15.

## II. LEGISLATIVE RELATIONS

In order to fully understand the legislative relations between the Union and the States, the essential thing to know is the distribution of powers in the three Lists. In each of the Lists given below only important subjects have been mentioned and others have been omitted.

### THE UNION LIST

Defence, armed forces, atomic energy, preventive detention for reasons connected with defence, foreign affairs or the Security of India, U. N. O. and participation in international conferences, treaties and agreements, war and peace, naturalization and aliens, immigration and emigration, passports and visas, railways, maritime shipping, light-houses, ports, airways, posts and telegraphs, wireless, election to Parliament and the offices of President etc., constitution and organization of the Supreme Court, audit of accounts of the Union, Reserve Bank of India, banking, insurance, patents, copyright, establishment of standards of weights and measures, mines and minerals, sanctioning of cinema photographic film, industries (the control of which by the

Union is declared by Parliament by law to be expedient in the public interest), such institutions as the National Library, Indian Museum and any other institutions financed by the Union Government, Universities of Aligarh, Benares, Delhi, Shanti Niketan, ancient and historical monuments, taxes on income other than agricultural income duties of customs including export duties, duties of excise on tobacco, opium etc., corporation tax, estate duty, terminal taxes on goods or passengers, taxes on the sale or purchase of newspapers, etc. (Total number 97).

#### STATE LIST

Public order, police, administration of justice, prisons, local government, public health and sanitation, intoxicating liquors, education, libraries, museums, communications, *i. e.* roads, bridges, ferries, etc., agriculture, water supplies, irrigation, forests, protection of wild animals and birds, fisheries, industries other than those in List 1, trade and commerce within the State, production, supply and distribution of goods, markets and fairs, weights and measures except establishment of standards, theatres and dramatic performances, State Public Service Commission, elections to the Legislature, betting and gambling, works, lands and buildings, public debt of the State, taxes on the agricultural income, estate duty in respect of agricultural land, duties of excise on goods manufactured or produced in the State, taxes on the consumption or sale of electricity, tax on advertisements, taxes on vehicles, animals, boats, stamp duty, jurisdiction and powers of all courts except the Supreme Court, with respect to any of the matters in this list, etc. (Total number 66).

#### CONCURRENT LIST

Criminal law and procedure, preventive detention for reasons connected with security of a State, maintenance of public order or the maintenance of supplies and services essential to the community, marriage and divorce, contracts including partnership, bankruptcy and insolvency, civil procedure, vagrancy, lunacy, prevention of cruelty to animals, trade unions, economic and social planning, social security and social insurance, welfare of labour, relief and rehabilitation displaced persons, vital statistics, charities and charitable institutions, price control, factories, electricity, newspapers, books and printing presses etc. (Total number 47).

*Extent of law made by Parliament and by the Legislatures of the States.* Subject to the provisions of the Constitution, Parliament may make laws for the whole or any part of the territory of India, and the legislature of a State makes laws for the whole or any part of the State. Parliament has exclusive power to make laws with respect to any of the matters enumerated in List (1) and it can also legislate with respect to any matters for territories other than those of States,

notwithstanding that such matter is one enumerated in the State List. Parliament has exclusive power to make any law with respect to any matter not enumerated in any of the three Lists, *i. e.* the residuary power.

*Powers of the Parliament to legislate with respect to a matter in the State List.* Parliament can legislate with respect to a matter in the State List : (i) If Rajya Sabha declares by a resolution supported by no less than 2/3rds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to a matter in the State List; (ii) if the legislatures of two or more States with respect to a matter included in the State List, request the Parliament to enact a law, it may do accordingly, and any Act so passed shall apply to such States and to any other by which it is adopted afterwards; and (iii) if there is a Proclamation of Emergency. Moreover, the Parliament has power to make any law for the whole or any part of the territory of India for implementing any treaty, agreement or convention with any country or countries, or any decision made at any international conference, association or other body.

### LEGISLATION WITH RESPECT TO A MATTER INCLUDED IN LIST III

If any provision of a law made by a State legislature on any of the matters in the 'Concurrent List' is repugnant to a law made by the Parliament, the State law shall to the extent of repugnancy be void. However, a law made by any State on a matter in the concurrent list, when it has been reserved for the consideration of the President and has received his assent, shall prevail in that State, though Parliament can make another law with respect to the same matter.<sup>1</sup>

Some changes have been made in the three legislative lists (given in the Seventh Schedule of the Constitution) by the 42nd amendment made in November 1976. The entries or subjects which have been transposed from State List to Concurrent List are : (a) administration of justice, constitution and organisation of all courts except the Supreme Court and the High Courts; (b) education; (c) weights and measures; (d) forests; and (e) protection of wild animals and birds. Also, taxes on advertisements through broadcast by radio or television have been excluded from the purview of entry 55 of the State List.

## III. ADMINISTRATIVE RELATIONS

### CONSTITUTIONAL PROVISIONS

It is provided that the executive power of every state is to be so exercised as to ensure compliance with existing laws as well as those

<sup>1</sup> Constitutional provisions and details of financial relations have been discussed in Chapter 15.

made by the Parliament. The Union Government has power to give such instructions to a State as it may deem necessary. The States are not to exercise their executive power in a way as to impede the executive power of the Union. The executive power of the Union extends to the giving of instructions to a State as to the construction and maintenance of means of communication declared to be of national or military importance. The power of declaring this vests in Parliament, and the Union Government also has the right to give directions to a State to protect railways, within the State, but a State so directed in respect of maintenance of highways or waterways or railways, etc. is to get compensation as regards cost incurred on such works the discharge of which is not included in the State's normal duties. In case of disagreement between the two governments on question of such compensation, the Constitution provides for the same to be determined by an arbitrator, appointed for the purpose by the Chief Justice of India.<sup>1</sup>

According to article 258 (1) the President, with the consent of a State Government, can entrust to the said State Government, or any of its officers, functions in relation to any matter to which the executive power of the Union extends. Thus the Union Government cannot act *suo moto* without obtaining the consent of the State Government concerned in the matter. Moreover, such entrustment can be made conditionally or unconditionally. It may also be noted here that the article contemplates entrustment of the functions of the Union, does not mean delegation of any authority.

A law made by the Parliament outside the scope of the State Legislature, may confer powers or impose duties upon the State or its officers. In such a case the Government is to bear the extra cost incurred by the State on its administration. The Parliament may by law provide for adjudication of a dispute or complaint regarding use, distribution or control of the waters of any river flowing through two or more States. If at any time it appears to the President that Public interests will be served by establishing an Inter-State Council charged with : (i) inquiring into and advising upon disputes between States, (ii) investigating or discussing subjects in which more than one States have a common interest, or (iii) making recommendations upon any such subject or better co-ordination of policy etc., the President may establish such a Council, and define the nature of its duties as well as its organisation.<sup>2</sup>

Under Article 339 (2) the Union executive is empowered to give directions to any State as to the drawing up and execution of schemes specified in the direction to be essential for the welfare of the Scheduled Tribes in the State. Further, article 350-A empowers

<sup>1</sup> Articles 256, 257, 353 (a) and 360 (3) empower the Union to give directions to the States.

<sup>2</sup> Article 263.

the President to issue appropriate directions to any State for securing the provisions of adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups.

When the Proclamation of Emergency made by the President under article 352 is in operation, the Union executive is empowered to give directions to any State as to the manner in which the executive power of the State shall be exercised. Even where such directions are given by the Union, the executive power is required to be exercised by the State itself and not by the Union. Directions so given can only extend to the manner of the exercise of the executive power of the State and not to the actual exercise of such power by the Union itself. Further, when the President makes a declaration of financial emergency, the Union executive has power to give directions to any State to observe specific canons of financial propriety as well as directions for the reduction of salaries and allowances of the persons serving in connection with the affairs of a State or the Union including the Judges of the Supreme Court and the High Courts.

Article 365 contains sanction for enforcing the directions given by the Union executive under the various articles referred to above. This article provides that where any State has failed to comply with or give effect to, any directions given in the exercise of the executive power of the Union, it shall be lawful for the President to hold that a situation has arisen in which the government of the State cannot be carried on in accordance with the provisions of the Constitution. The consequences of such a situation having arisen are dealt with in article 356 containing provisions for the failure of constitutional machinery in the States. The Constitution not only provides that the State shall exercise its executive power so as to ensure compliance with Union laws or so as not to impede or prejudice the exercise of the executive power of the Union, but it also entitles the Union in the exercise of such power to give necessary directions to the State to prevent any conflict between the Union and the State and further entitles the President to take appropriate steps if the State fails to comply with the directions given to it by the Union.

The Governor is the agent of the President and not of the Government of India, in the States, for which he is subject to instructions from the President. Under article 200 authority has been given to the Governor to reserve a Bill for the consideration of the President and this reservation is obligatory where any Bill is likely to 'so derogate from the powers of the High Court as to endanger the position which that Court is by this Constitution designed to fill.' The President as the Head of the Union has less powers in respect of Bills passed by Parliament, but as the Head of the Indian State his power in respect of the State Bills is unlimited.



This difference in the authority of the President in respect of Parliament and State Bills becomes clearer still when a reference is made to article 254 (2). A law made by Parliament in regard to one of the matters enumerated in the concurrent list shall prevail if it is repugnant to any provision of a law made by the Legislature of a State. But if the State law had been reserved for the consideration of the President and has received his assent, it shall prevail in the State.<sup>1</sup>

#### ZONAL COUNCILS

As part of the scheme of reorganisation of the States in 1956, the States and the Union Territories (other than the islands) were grouped into the following five zones: (1) The Central Zone, comprising the States of Uttar Pradesh and Madhya Pradesh; (2) The Northern Zone, comprising the States of Haryana, Punjab, Rajasthan, Jammu and Kashmir, Himachal Pradesh and the Union Territory of Delhi; (3) The Eastern Zone, comprising the States of Bihar, Nagaland, West Bengal, Orissa, Assam, Meghalaya, Manipur and Tripura and the Union Territory of Arunachal; (4) The Western Zone, comprising the States of Maharashtra and Gujrat, and the Union Territory of Goa, Daman and Diu; and (5) The Southern Zone, comprising the States of Andhra Pradesh, Tamil Nadu, Kerala and Karnataka.

A Zonal Council was established for each of the above zones with effect from 1 November 1956, with a view to providing a forum for close cooperation amongst the States, and the Union Territories included in each zone in respect of matters of common interest to them. The Union Home Minister was nominated by the President as the common chairman of all the zonal councils. Apart from him, the council in each case consists of the Chief Ministers of the States included in the zone along with two other Ministers from each State. The Chief Ministers are to function as vice-chairman of the Council by rotation, each holding office for a period of one year at a time. The Union Territories are represented in the Councils by not more than two members from a territory in each case, one of these being the administrator of the territory himself, namely, the Lt.-Governor or the Chief Commissioner, as the case may be. In the case of the North East Frontier Agency, the Adviser to the Governor of Assam for the agency is its representative on the council for the Eastern Zone. The composition of the Zonal Councils also provides for the inclusion of certain official advisers in each council, namely a nominee of the Planning Commission, the Chief Secretaries and the Development Commissioners of the States included in the Zone. These advisers have a right to participate in the discussions of the Council but have no right to vote.

<sup>1</sup> L. M. Singhvi (ed.), *Union-State Relations*, 42.

The Zonal Councils are advisory bodies and as such, may discuss any matter of common interest to some or all of the parties represented on them, namely the Union, the States or the Union Territories. They may advise the Central Government and the Government of each State concerned as to the action to be taken on any such matter. It has been provided that the Zonal Councils, may, in particular, discuss and make recommendations with regard to any matter of common interest in the field of economic and social planning or questions like border disputes, linguistic minorities, inter-state transport, or matters arising out of the reorganisation of States. There is also a provision for holding joint meetings of two or more zonal councils.

Inaugurating the meeting of the Northern Zonal Council on 5 August 1973 at New Delhi, Home Minister said that the development in general was linked with progress in the field of land reforms. The States should, therefore, deal with the subject with a sense of commitment. The meeting decided to set up a number of committees and working groups to hammer out solutions to inter-State problems : (i) It decided to set up a working group of policemen drawn from the zonal constituents to devise ways and means to combat inter-State crime; and (ii) to set up a committee consisting of the Union Home Minister and the Chief Ministers of Punjab and Rajasthan to work out a mutually acceptable solution for allotting land to ex-servicemen of Punjab and Haryana in Rajasthan.

In the field of regional co-ordination and cooperation new forms of organisations have come into existence. In the year 1950, the Damodar Valley Corporation was set on the model of the T. V. A. in the United States, by a parliamentary statute, with the consent of the two participating States of Bihar and West Bengal. It is not only a policy-making body but also an administrative organisation. The Central Government exercises some amount of control over the corporation, as it appoints its top personnel, prescribes terms and conditions for their service and issues directives on policy matters. In addition to this Corporation, more than a dozen control boards have also been set up. Such a board is constituted under a resolution of the Central (or State) Government. Their constitutions differ slightly, but their functions are more or less the same. Important among them are : Kosi Control Board and the Nagarjunsagar Control Board. Finally, the Central Government constituted in 1965. Five Regional Electricity Boards, which function under the control of the Central Electricity Authority. For this purpose the country has been divided into five regions—North, East, North-East, West and South. These Boards are advisory in nature.

A major step towards resolution of inter-State river disputes was taken when an agreement on the establishment of a Cauvery Valley Authority by the three riparian States—Tamil Nadu,

Karnataka and Kerala was reached. The Cauvery Valley Authority was visualised as a technical body of representatives of the three States over which a nominee of the Centre will preside. Its task will be to develop the water resources of the valley in the optimum manner.

#### IV. IMPACT OF PARTY SYSTEM AND PLANNING

##### IMPACT OF PARTY SYSTEM

During the pre-1967 phase, the Government of India effectively dominated the States. This condition existed, not because of any constitutional device, but because of the presence of certain factors in the political system. Two important factors were : (1) Nehru's leadership, and (2) the domination of a single political party over both the Central and State governments. An additional important factor created a unique situation which led critics and observers to conclude that India was in fact a unitary state with subsidiary federal features. Thus, within a decade of the inauguration of the new Constitution, the distribution of functions and their relative importance to the States and the Centre underwent a 'de facto' though not a 'de jure' change. This combination of circumstances—the bias in favour of the centre, the extra-constitutional influence exercised by the organisation, and the functioning of the Congress Party, the setting up of the Planning Commission, and the enveloping process of planning—brought about a degree of centralization far beyond what was dreamt of even by the makers of the Constitution.

For the twenty year period after Independence the Congress Party reigned supreme in India; and intra-party cleavages did not threaten this hegemony. State-Centre relationships during this period established a pattern of Central domination. But the post-1967 election period saw the creation of a significantly different political milieu—an environmental change which profoundly altered Centre-State relations. Nehru's death brought with it the end of symbolically unified leadership in Indian national affairs. With the departure of Nehru's firm and strong control, centralized economic planning exhibited a marked decline on both popular and official support. Even more significantly, the Fourth General Election (1967) ended one-party rule and marked the rise of competition between the various factions and regions in Indian politics. These events had profound implications for the future of Centre-State relations. For some years the trend was in favour of coalition governments in some of the States, but the experiment did not succeed. The Lok Sabha elections of 1971 and elections held for several State Assemblies in 1972 resulted in the establishment of the old pattern of relationship between the Centre and the States. This state of affairs continued upto March 1977.

'The pattern was reflected in the Central government's exercise of supremacy over the State governments. National economic planning reinforced party centralization in establishing the supremacy of the Central heyday of economic planning efforts and of the Indian peoples' enthusiasm for such efforts. The Centre's planning activities and the pressure exerted by popular support of such activities combined to create a situation in which Central leadership and direction of economic planning augmented the general authority of the Centre. The State Governments were consulted on the problems of planning through mechanisms such as the National Development Council, but the States had no veto power over the Central Government's plans. At best the States could obtain occasional concessions on particular problems in their area, but they were not in a position to challenge the national priorities fixed by the Central Planning Machinery of which Nehru was Chairman.'<sup>1</sup>

#### IMPACT OF PLANNING

'The federal character of the Constitution came to be dissipated when a regular plan-system was super-imposed upon the normal processes of Centre-State relationships. Between 1951-52 and 1966-67 centralising trends in Indian federation were powerfully manifest. The Planning Commission was virtually an adjunct to the Union Government, planning for both the Union and the States.' Not only in the formulation of State plans, but also in diverse developmental activities of the States, the Planning Commission had a controlling influence. To give some instances which show encroachment upon State autonomy, through its Land Reforms Division the Commission used to examine the land reforms schemes of the States before they were introduced in the State legislatures; the basic principles of local development works programmes were set by the Commission; and specific schemes of development were approved by the Commission.

The Administrative Reforms Commission, while making recommendation on Centre-State relationships in the field of planning, could not, therefore, overlook the organised opposition of the States to Central control. The Commission recommended that the participation of the Union Ministers in the planning commission be discontinued and the Commission be re-constituted as a non-ministerial expert advisory body, bereft of all its functions executive in character. The ARC also recommended the modification of the existing system of grants-in-aid. The Commission observed : 'Hitherto, the grants for individual schemes have been fixed in accordance with pre-determined patterns. We suggest that these patterns be abolished.' The recommendation of the ARC relating to non-ministerial character of the Planning Commission was highly commendable. It

<sup>1</sup> *Ibid.*, 48.

served to remove the Commission from the area of political bargaining and to eliminate the apprehensions of the States in regard to the pro-centre bias of the work of the plan-body.<sup>1</sup>

K. Santhanam in his work on this subject wrote: 'The position of the National Development Council has come to approximate to that of a super-cabinet of the entire Indian federation, a Cabinet functioning for the Government of India and the Governments of all the States.' It has been analysed how the Community Development Programme had been responsible for unitary trends in our federal system. According to him, the basic decisions in respect of this programme had been taken in the main by the Union Government and had been made effective by the States with minor alterations. Much of the central direction in respect of policy matters pertaining to Community Development had been possible, because a substantial portion of the financial burden of the programme was borne at least initially in Stage I and Stage II by the Central Exchequer. Besides these, other factors were: (1) Centralised organisation and direction of the training of community development personnel. (2) Annual conferences of Development Commissioners convened by the Ministry of Community Development. (3) Hundreds of books—manuals, pamphlets, reports, and reviews etc. have been brought out by the Central Government. Above all, 'Kurukshetra' and 'Gram Sewak' have established themselves as the organs of national thinking on Community Development. (4) Miscellaneous schemes of various sorts, for example, scheme of prize competitions for Village Level Workers, have also extended the central influence. (5) Programme Evaluation Organisation under the Planning Commission publishes annual reports which also influence the State administrations of the Community Development Programme.<sup>2</sup>

The above trends are no doubt in a sense the inevitable concomitant of central economic planning. Planning, comprehending as it does the whole range of economic development has necessarily to cut across the lines drawn by the Constitution between the Centre and the States. In so far as the plan seeks to promote certain national priorities and objectives, some sacrifice of independence of action on the part of the States cannot be helped. One should in fairness also concede that planning, while limiting the freedom of action of the States, has helped to promote uniform policies calculated to aid economic growth and has imposed a measure of discipline on the States in regard to control of non-plan and non-developmental expenditure. The States have also been persuaded to undertake various measures for mobilisation of resources on a scale which left

<sup>1</sup> *Ibid.*, 147-51.

<sup>2</sup> P. R. Dubhashi, Unitary Trends in a Federal System, *I. J. P. A.*, July-Sept. 1960, 251-54.

to themselves they may not have undertaken.<sup>1</sup>

The principal recommendations of the six Finance Commissions show clearly that the Finance Commissions have taken due note of the growing inadequacy of the resources of the States, particularly in relation to planning, and their increasing dependence on the Centre for financial assistance. But the important thing to note here is that financial assistance, whether by way of devolution or grants, which the States receive on the basis of the recommendation of the Finance Commission is of a statutory character and does not involve Central control over its utilization. Accordingly, it does not affect the autonomy of the States.

## V. NATURE OF INDIAN FEDERALISM

The question whether the Constitution of India is truly federal or unitary is really a debatable issue. Wheare holds the view that 'the Constitution is quasi-federal'; K. M. Munshi, a distinguished jurist, called our Constitution 'a quasi-federal union invested with several important features of a unitary Government.' According to Sir Ivor Jennings, 'India has a federation with a strong centralising tendency.' As regards the structure of our Constitution Dr. Gajendragadkar, former Chief Justice of India, observed that 'though it partakes of some of the characteristics of federal structure, it cannot be said to be federal in the true sense of the term.' Thus, since the making of the Constitution two opposite view have been expressed about the nature of the Constitution; while some call it truly federal, others lay emphasis on its unitary features.

However, there is substantial agreement among writers that our Constitution satisfies the essential conditions of a federal form. It is a Union of States; and there is a division of powers between two authorities. During normal times the States shall remain autonomous, since the legislative and executive powers of the States are comprehensive and defined in detail in the Constitution. But during an emergency arising from actual aggression, a threat of aggression or widespread internal disorder, the State governments come under the direct control of the Union Government. Taking into consideration the powers of direction etc., which the Union Government can exercise even in normal times, it should be admitted that the Indian Constitution has a distinct bias towards unitarism. In justification of such an arrangement, it may be said that 'deviations from the traditional conception of a federation were inescapable, both in the context of India's political and economic evolution and her future needs.'<sup>2</sup> There is much substance in the opinion that if India is to

<sup>1</sup> See Ramchandran, *Union-State Relations in Finance and Planning*, I. J. P. A. July-Sept. 1966, 379.

<sup>2</sup> Asok Chanda, *Indian Administration*, 53.

realize fully her declared objective 'to secure to all citizens the dignity of the individual and unity of the nation, the structure of her administration should conform more to the unitary pattern.'

According to Appleby there are, both in the Indian Constitution and in the present society as well as in practice, factors for unity and factors making for disunity. Main unitary factors are : (1) Powers lodged in central organisms for resolving many conflicts between Centre and States. (2) A central power to veto state legislation where it is held to be in conflict with national law. (3) Provision where it is held to be in conflict with national law. (4) Provision of an emergency power under which the Centre might take over administration of defence and foreign affairs. (5) Central capacity for influencing state policy through grants-in-aid and loans. (6) Central monopoly of income-taxes, other than agricultural, and certain excise taxes, as well as customs. (7) A certain small but important civil service common to the States and the Centre. (8) Appointment of Governors by the Centre. (9) A real and strong national aspiration spread throughout the country, although not uniformly present. (10) Extraordinary national leadership focussing in the Prime Minister, and closely related to this factor something now closely approximating a one party system.

However, the above factors are more or less balanced by other factors tending towards disunity, of which some of the important ones are : (1) Two parliamentary systems operating concurrently, one in the Centre and one in the States, capable of coming under the control of different parties. (2) A great and growing sentiment and practice favouring 'autonomous' states. (3) Absence of any nucleus field structure of the Centre around which to establish emergency administration, and growing hostility to the idea. (4) Probable weakening of national leadership in time or at particular times. (5) Prospective disappearance of the one-party situation. (6) The great social, educational and economic gap between the mass of citizens and the elite elements of leadership. (7) An under-current of non-democratic ideology among a small but militant minority, capable of disproportionate tempo of reforms. (8) The centre-appointed governor's position is largely ceremonial and normally devoid of much influence.<sup>1</sup>

Several writers have emphasised the fact that Indian Government is more unitary than federal and also that the tendencies are in favour of unitarism. K. Santhanam in his recent work on this subject writes : 'Planning has superseded the federation and our country is functioning almost like a unitary system in many respects.'<sup>2</sup> Again, in an article, 'The Changing Pattern of Union-State Relations in

<sup>1</sup> Paul H. Appleby, *Public Administration in India*, Report of a Survey, 1953, 3-5.

<sup>2</sup> L. M. Singhvi, *op. cit.*, 47 and 56.

India', he points out several other ways in which the Union Government is able to exercise influence over the States. First, it has become the practice to hold annual conferences of Ministers, Secretaries and Heads of departments relating to every subject. They are intended to promote cooperative action by the States and this should be welcomed. At the same time, they also provide convenient means to enforce central direction which tends to become imperative when it is supported by financial inducements. Second, the centralised character of the Congress and other major political parties has also tended to diminish the status of the States in relation to the Centre. Third, other factors like the Zonal Councils, the creation of Engineering, All-India Medical and Forest Services and the pattern of electioneering that has been emerging, all have had their effects on Union-State relations. As a result of all these forces, State autonomy in the fields of economy, finance and administration has been steadily diminishing.<sup>1</sup>

In a case Study of Rajasthan it has been concluded that despite the centre's predominance over Rajasthan both in the legislative and financial matters, owing to the backwardness of the State, the note-worthy spirit between the two has been that of cooperation rather than of competition. Since the inception of the Assembly there has not been any occasion of Centre-State tension resulting in profound strains in the operative machinery of Union-State relations. This accommodation between the two may be attributed to two factors. Firstly, the State of Rajasthan which had been buried in illiteracy, poverty and socio-political backwardness, required a substantial subsidy for its development. Secondly, the one-party rule both at the Centre and in Rajasthan precluded, on the one hand, the discord between the two and afforded, on the other, a full opportunity to manoeuvre central assistance.<sup>2</sup>

It may also be remarked that the tendency towards extreme centralism is likely to be modified if as a result of the reorganisation of States on the linguistic basis a sort of sub-national feeling or regional sentiment is strengthened. 'The impact of developments...is such that it tends to strengthen the position of State vis-a-vis the centre, the more so as the pressure of linguistic communities called for re-drawing the federal map of India. It hardly justifies the classification of India as a quasi-federation.'<sup>3</sup> The tendency towards centralism may also be modified if parties other than the Congress are returned to power in the States, as happened in 1967 and again after June 1977.

In the end, we may reflect as to how far the tendencies towards

<sup>1</sup> *I. J. P. A.*, Vol. IX, No. 3, 464.

<sup>2</sup> C. M. Jain, Centre-State Relations in India, *I. J. P. A.*, July-Sept. 1970, 289.

<sup>3</sup> C. H. Alexandrowicz, *Constitutional Development in India*, 169-70.



centralism are desirable. There are those who even now suggest that the only remedy to check the growing centrifugal forces in India is a unitary constitution. From the point of view of uniform social and economic development of the country and at a sufficiently fast rate increase in the controlling and directing powers of the Union Government would be in the larger interests of the nation. 'Those having almost a sentimental attachment to the sacred doctrine of State autonomy will cry halt to incursions in the domain of State authorities. But the desirability can also be considered from the stand-point of the effect of such tendencies on the promotion of the ends of the welfare State. There is no gainsaying the fact that but for Central-State partnership in the Community Development programme, it would hardly have been possible to bring into existence throughout India an administrative machinery of a Welfare State in action extending right upto the village level with uniformity of pattern and nomenclature....'<sup>1</sup>

## VI. COMMENTS AND OBSERVATIONS

The attainment of independence followed by the enactment of a democratic Constitution, the recognition accorded to 14 languages as 'the languages of India,' the adoption of Hindi (along with English) as the federal language, and the right given to the State Legislatures to adopt any one or more of the languages in use in the State or Hindi as the language or languages to be used for all or any of the official purposes of the State,' whetted the desire of the linguistic groups to have the component units of the Union reorganised on a linguistic basis. The reorganisation of States on a linguistic basis gave rise to some new conflicts and tensions, especially relating to the rights of linguistic minorities, the claims of various States or areas of bordering States, and the role of Hindi as the official language of the country. Another important effect of the reorganisation has been to give State politics a more intensely regional character and to make the States a much more important lever of power.<sup>2</sup>

The Governor, as an appointee of the President—in practical terms that of the Central Government—has come to be looked upon as chief instrument of Centre's alleged conspiracy to topple the non-Congress ministries in the States. An office, which suffered a relative eclipse during the pre-1967 era of one-party dominance, thus suddenly shot into both importance and controversy, the new situational demands on the incumbent on the office being impartiality and balanced use of situational discretion which may defy both fear and

<sup>1</sup> P. R. Dubhashi, *op. cit.*, 255.

<sup>2</sup> S. A. H. Haqqi, *The Indian Federal Structure and Indian Unity*, edited by L. M. Singhvi, *op. cit.*, 200.

prejudice.

The first instance where the Governor was called upon to use his discretion in installing a government occurred in Rajasthan where both the Congress Party and the United Front (UF) claimed majority in the Assembly. The Governor, Dr. Sampurnanand, chose to call the leader of the Congress Party to form the government after his novel and controversial interpretation of the position of the independent MLA's, U.P. and Punjab presented other variants of the Governor's role. The Governor of U.P. Dr. B. Gopala Reddy, after Charan Singh's exit, having been convinced that neither the Samyukt Vidhayak Dal (SVD) nor the Congress was in a position to give a stable administration to the State, recommended the dissolution of the Assembly. The main issue that was raised in this case was whether it was not obligatory for the Governor to give a chance to the SVD in deference to the out-going Chief Minister's advice to form a government? Was it within the Governor's competence to place before the SVD certain conditions like 'cohesion' among the SVD constituents, comfortable majority, etc., which, it is reported, he did. In Punjab, when on account of defections the Chief Minister resigned, he advised the Governor to dissolve the Assembly and order fresh polls. The Governor turned down the demand on the ground of election costs, and it was further argued that a defeated Chief Minister could not insist on the dissolution of the Assembly. Notwithstanding such a stand, the same Chief Minister was later asked to try to form a government within two days. The Chief Minister on account of certain circumstances could not do so and the Governor took a hasty decision to ask the dissident leader to form the government.

The foregoing survey highlights in the main the following issues about the role and position of the Governor in the scheme of Union-State relations : (1) The most critical issue relates to the question of the differentiation of the Governor which amounts to asking what the Governor can do and what he cannot do and what are the rational limits of his situational discretion? (2) An allied question relates to the issue of balanced reconciliation of his dual role as constitutional head of the State and as agent of the Centre. (3) As a corollary to the above-mentioned two issues is the question of the legitimate grounds on which a Governor can recommend breakdown of constitutional machinery in the State and consequent upon it a Presidential take-over, (4) It is natural that in the wake of controversies about the role of the Governor, the issues of the method of his appointment and term of his office have also cropped up.<sup>1</sup>

Bureaucracy is another institutional area of tension between the Central Government and the States. The points at issue are the

<sup>1</sup> Iqbal Narain and A. K. Sharma, *The Emergency : Issues and Ideas in Indian Federalism*, *Ibid.*, 176-79.

neutrality of service and formation of new All-India services. It is being questioned whether the services, which hitherto were called upon to implement the programmes and policies of the Congress Party governments alone, will implement with the same honesty and zeal the policies of the DMK government in Tamilnadu, the Communist government in Kerala, the Communists-dominated coalition government in West Bengal and the Akali-dominated coalition in Punjab, and, for that matter a government of any other political complexion in any of the remaining States.

In the functional sphere the law and order issue has been the most fertile ground of disputes. The Communist ruled Kerala and the Communist dominated West Bengal UF governments took up cudgels with to Central Government in this behalf. During the Central Government employees strike of September 1968 the Kerala Chief Minister chose to reserve his right of interpreting the 'Essential Services (Maintenance) Ordinance' promulgated by the President, which sought to declare the threatened strike by 2.6 million Central Government employees as illegal. To this the Centre retorted that the Central laws were not open to interpretation by States and that the latter had the constitutional obligation under articles 256 and 257 to enforce within their boundaries the Central laws and directives.

Similarly, in regard to the deployment of CRP units in Kerala, it was stated that reports had been received from various Central government offices in the State that they were afraid that they could not get adequate police protection and cooperation from local authorities. They, therefore, asked for the assistance of the CRP for safeguarding the vulnerable points. This led to arguments on both the sides accusing each other of violating the constitutional provisions. The Chief Minister had objected to the deployment of CRP units without consulting the states, but the Centre clarified that the Constitution provided that the Union Government could deploy armed police at its discretion without the concurrence of the State Government concerned to protect its installations.<sup>1</sup>

On the basis of an objective analysis of the situation in Kerala, following observations were made: (1) Both the Governments wanted to avoid confrontation; (2) The Chief Minister was shabbily treated as he came to know of the posting of CRP through newspapers; (3) The higher Civil Service works as an instrument of the Centre, although its members are employed under the State government; (4) Such instances are likely to be repeated if there is a difference between the social philosophy and political outlook of the two levels of government. The Centre should, therefore, act with dignity and restraint and should not be hustled into action. The above study of two comparable situations shows that the relations

<sup>1</sup> *Ibid.*, 182-85.

between the Centre and the States are governed by political considerations and not by legal provisions of the Constitution so much. And it was probably due to such reasons that the Central Government failed to adopt a tough line with the two leftist Governments. The attitude and conduct of the Central Government should not only be accommodating but also diplomatic and dignified.<sup>1</sup>

A great heat has been generated by the issue of financial allocations among States through the mechanism of Finance and Planning Commissions. The States have felt very unhappy about the existing arrangement of finances under which the taxes which are flexible and major sources of revenue go to the Centre; and States have to content themselves with meagre and inflexible sources of revenue. This has resulted in increasing dependence of the States on the Centre for the financing of their plans. The Centre is in a position to dictate to the States both the size and priorities to be contained in the State Plans whether these suit them or not. Viewed in this context the recommendations of the Administrative Reforms Commission (ARC) in respect of the reorganisation of the Finance Commission are very significant. The ARC has suggested that the Commission should be converted into a standing body and should simultaneously hold charge of both plan and non-plan expenditure and further that it should have five-yearly awards.

The frequent imposition of the President's rule in the States under the provisions of article 356 has also raised many constitutional issues. Extra-ordinary powers under this article with respect to State emergency, have been exercised a number of times in the past. The phraseology of clause (1) of article 356 is very vague and in general terms. It may include not only actual breakdown of constitutional machinery of a State, but also the problem of law and order, general insecurity, political and ministerial crises. But the Central Government has made use of the powers under article 356 for the imposition of President's rule in a State on the basis of several causes and circumstances leading to failure of a State machinery contrary to the intentions of the framers of the Constitution as in the case of Kerala in 1959 and West Bengal in 1968. Presidential take-over of the States under article 356 after the Fourth General Elections became a very frequent affair for the Centre.

After the Lok Sabha elections of March 1977, the Janta Party formed its government at the centre. Shortly afterwards the Home Minister advised the Chief Ministers of nine states in the north which had Congress ministries to voluntarily resign and hold new elections as the people of those states had completely rejected the Congress Party at the polls. But the Chief Ministers, under the direction of the Congress Parliamentary Boards, did not accept the

<sup>1</sup> G. P. Srivastava, *Centre-State Tensions in India since 1967*, *I. J. P. S.*, Jan.-March 1973, 69-70,

advice. Thereafter the Union Cabinet decided that the assemblies in the nine states be dissolved and advised the Acting President to issue the necessary proclamations under article 356. After some hesitation the President issued the proclamations, the assemblies were dissolved and Presidential rule was imposed. Elections for their assemblies were held in June and the people overwhelmingly supported the decision of the Central Government. But this was a unique case when presidential rule was imposed in nine states without any report from their governors.

At a seminar held in Hyderabad in 1971 the then Vice-President Shri G. S. Pathak posed the question whether the constitutional provisions were themselves defective or the fault lay in the defective implementation of them. He was of the view that the Constitution by and large had worked very well. The question assumed some urgency and importance in the light of two sets of recommendations, which are contradictory. The Administrative Reforms Commission did not feel any need for amending the Constitution. The controversies pertain in their view mostly to matters, administrative and financial, and not constitutional issues. The ARC made recommendations for the delegation of more financial and administrative functions and powers to the States. On the other hand, the Rajamannar Committee on Centre-State relations proposed several amendments to the Constitution.

To give one example, the federal principle received a jolt by the provision made in Article 249, which empowers Parliament to legislate in respect to a matter in the State List, if a resolution supported by not less than two-thirds of the members present and voting in the Rajya Sabha approves of such action. 'National interests' is a wide expression, and the decision of the Rajya Sabha is conclusive as to whether it is expedient in the national interest that Parliament should legislate on a state subject. Again take, for example, Article 260. It is a very wide provision which confers power on the Governor to reserve any bill for the consideration of the President. Taken with Article 201, there is a possibility of President's assent to a State bill being refused, even if the State legislature passes it again. This is in sharp contrast with the provision relating to the President and Parliament. According to article 111, the President has to give his assent if Parliament reconsiders a bill on his suggestion and passes it again. The Rajamannar Committee, therefore, recommended that the power conferred on the Governor to reserve any bill for the President's consideration should be taken away.

The Rajamannar Committee has held that Articles 256 and 257 regarding the exercise of executive power by the State should be done away with. If for any reason they are retained, directions under them could be issued only after they are approved by the Inter-

State Council. The purpose underlying these two articles is that laws made by Parliament should be backed by the executive power of the Union. As Parliament has got the power to make laws for the whole or any part of the territory of India, it follows that it also has powers to do all acts and incidentals necessary in order to effectuate the object for which the original power was given.

Although there is an element of truth in the above argument, yet there is no justifiable reason for the bogey of autonomy raised from time to time in Tamil Nadu. It is quite clear that the recurring cry from certain quarters, particularly the DMK of Tamil Nadu, for state autonomy is nothing but a vote catching slogan intended to cover up the deficiencies of their performance. Several expert Committees, including the Rajamannar Committee appointed by the Tamil Nadu Government have considered the question and are of the view that nothing more is needed than certain adjustments in the federal structure to make State autonomy more meaningful. In order to achieve these adjustments, the State Governments have to send concrete proposals to the Centre and follow them up with earnest discussions. Public platforms are hardly the forum for achieving the aim.

While the Akalis in power demanded greater autonomy for the States and the CPM extended a moral support to this demand, the extremist Akalis continued to harp on the demand for a Sikh homeland. But this was only a temporary phase. With the radicalisation of the masses and the growth of the democratic movement, this political trend received a major setback in early seventies. This was reflected both in the mid-term poll to the Lok Sabha and the Assembly elections. However, it would be incorrect to underestimate this trend, because almost every third voter in Punjab voted for the Akalis.

With the object of removing tensions and developing co-operation between the Centre and the States, a very satisfactory form of consultative machinery has been developed, which falls into three broad categories. The Constitution of India itself has visualised institutions to this end. Article 263 envisages an Inter-State Council. Although the Inter-State Council has not yet been set up, the article was expressly invoked in 1952 and 1954 when the Central Council of Health and the Central Council of Local Self-Government were respectively established. Article 262 lays down an adjudicating machinery for settlement of inter-state river water disputes which, in 1956, got crystallised in the shape of Inter-State Water Disputes Act. The second category comprises a network of conferences and councils brought into existence by the Central Government to act as institutionalised channels for consultation with the States on a wide variety of subjects.

These bodies are mostly ad hoc ones although a few like zonal councils are statutory in origin and at least three of them—the National Development Council, the Central Council of Health and the Central Council of Local Self-Government—owe their existence to the resolutions of the Central Government. These conferences take place at political, administrative and professional levels. The National Development Council, the Chief Ministers' Conference, and the conferences of ministers of different departments are examples of conferences at the political level. The conferences at the administrative level include the chief secretaries' conference and the conferences of various functional secretaries. They are all ad hoc. The conference of Chief Justices of High Courts, presided over by the Chief Justice of India, the conference on Irrigation and Power attended by state government engineers and heads of river valley projects and the conference of Vice-Chancellors are among the conferences held at professional level although the first one does not fall within the executive branch of the government.<sup>1</sup>

There are vital political considerations which make administrative consultations of paramount importance. As long as a single national party ruled at the centre and practically all the States, the political party itself provided a common platform, on which consultations at the highest level could take place. The Congress Parliamentary Board consisting of the elder statesmen of the party formed a coordinating agency between the Centre and the States. In addition, there was the towering father image of Jawaharlal Nehru, who was the symbol of modern India.

At the highest level of the Governors' Conference, the broad impact of the national policies on the Centre and the States is discussed. Governors' conferences are non-political and non-partisan and are concerned with the fundamental objectives as laid down in the Constitution, e. g. the integrity of the country, the protection of minorities, and the uplift of Harijans, etc. Perhaps, the highest institutional arrangement for consultation between the Central and State Governments is the National Development Council. Another important forum for consultation (as far as the Chief Ministers belonging to the ruling party are concerned) is the numerous party meetings and conferences.

An important channel of communication, particularly in the planning process, is the Planning Commission. Besides the Planning Commission, which is a permanent body, ad hoc commissions are appointed from time to time for specific matters concerning the Centre and the States. The most important of such commissions is the Finance Commission appointed once every five years. Other Commissions of significance are the Administrative Reforms

<sup>1</sup> S. R. Maheshwari, *The Centre-State Consultative Machinery in India*, *I. J. P. A.*, July 1970, 35.

Commission and States' Reorganization Commission. Each of the administrative ministries has a high powered body—Committee or Bord—which is often a mixed one, consisting of ministers and senior officials of the States and the Centre. Such committees hold periodic meetings, which deal with the specific aspects of the Ministries' work. In addition to the high level committees and Boards, frequent meetings are held, both collectively and individually, by the various administrative ministries at the centre with the corresponding ministries at the State level. It would be pertinent to emphasize here the role of the All-India Services in making Centre-State consultations at the official level smooth and effective.<sup>1</sup>

Pleading for cooperative federalism, L. M. Singhvi made out a strong case for the establishment of the Inter-State Council. 'The main purpose of the Council would be to achieve co-ordination between the States and between the Union and the States. The initiative for constituting the Council is vested in the President, and this signifies the constitutional conception of the responsibility of the Centre in fostering such co-ordination. To co-ordinate is to bring into a common movement or condition, to regulate and combine in harmonious action, so that the States may act in a smooth, concerted way. An Inter-State Council could thus be the fulcrum of harmony and homogeneity in inter-state intercourse...the duties of the Inter-State Council would be mainly to enquire into and advise upon Inter-State disputes, to investigate and discuss subjects in which some or all of the States or the Union or one or more of the States have a common interest and to make recommendations upon any such subject for the better co-ordination of policy and action. The Constitution does not envisage an executive role for the Inter-State Council. Its ambit would in a sense be an admixture of the cognitive, consultative, normative and advisory functions.

'Apart from its role in resolving Inter-State disputes, the Council should study and investigate subjects of common interest for the States and the Union and should make recommendations for the better co-ordination of policy and action. This is a wide and substantial charter under which the Council may investigate practically any area of policies, programmes and proposals. The Council could thus bring to bear on policy-making in the country a basic and far-reaching awareness of our federal system and the needs and exigencies of federal fairplay, equilibrium and integration. Institutionally, the Inter-State Council would be the principal forum of Inter-State and Union-State consultation, and would subsume within its rubric the entire range of consultative devices such as the Ministers' conferences, the Chief Ministers' conferences, the National Development Council, the National Integration Council and various

<sup>1</sup> Ram. K. Vepa, *Administrative Consultation : Formal and Informal*, *I. J. P. A.*, July-Sep. 1970, 420-28.



Councils on specific subjects such as health, local self-government and food. The Inter-State Council would also provide basic background data for research on federal problems.<sup>1</sup>

## VII. RECOMMENDATIONS OF THE A.R.C. AND DEMAND FOR MORE AUTONOMY

### RECOMMENDATIONS

In its report on Centre-State Relationships presented to the Government of India on 19 June 1969, the ARC has stated that the existing provisions of the Constitution are adequate to meet any situation or to resolve problems that may arise as a result of the change in the political pattern brought about by the last general election and the mid-term polls. In his letter to the Prime Minister, the ARC Chairman added: 'It is not in the amendment of the Constitution that the solution of the problems of the Centre-State relationships is to be sought, but in the working of the provisions of the Constitution by all concerned, in the balanced spirit in which the founding fathers intended them to be worked.'

An important recommendation of the ARC relates to the establishment of an Inter-State Council under article 263 of the Constitution. It should consist of (i) the Prime Minister (Chairman), (ii) the Finance Minister, (iii) the Home Minister, (iv) the Leader of the Opposition in the Lok Sabha (when one is not available a representative should be elected by the Opposition parties by single transferable vote), and (v) five representatives, one each from the five Zonal Councils. The tenures of the Council should, to begin with, be two years. A decision may be taken on its continuance in the light of experience gained.

On the Centre's role in matters relating to law and order, the ARC has said that the Army, Navy, Air Force or any other armed force may be deployed by the Centre in any State either at the instance of the State Government or by the Centre of its own accord. It has, thus, rejected the West Bengal Government's contention against the deployment of Central forces. The ARC has also recognized the Centre's right to exercise its direction to locate such forces in the States and to deploy them for the protection of Central property or staff.

The Commission also recommended that powers should be delegated to the maximum extent to the States with regard to their work on projects in which the Centre is directly interested or which are carried out by them as agents to the Central Government. After having examined the conflict between the Centre and the States on the distribution of powers and resources in the Union, the Commission has expressed the opinion that administrative

<sup>1</sup> L. M. Singhvi (ed.), *op. cit.*, 213.

methods and procedures adopted as a result of centralized planning had tended towards excess of interference in the freedom of States to work out their policies and programmes.

The ARC recommended that loans for Plan schemes should be given only when they are of a productive type. Decisions to this effect should be taken by the Planning Commission in consultation with the Finance Ministry and other Central Ministries concerned. The repayment of such loans should be made over a period of time and timely payment of proper rate of interest should also be insisted upon. The States should endeavour to maximise the return on the investments and build up sinking funds for amortization of loans. Assistance for non-productive capital schemes should be in the form of capital grants. Further, a committee of experts should go into the problem of dealing with outstanding Central loans to the States for Plan schemes and setting up of sinking fund for the amortization of debt.

The Finance Commission should also make recommendations on the governing principles for distribution of Plan grants to the States. The application of these principles will, however, be left to the Planning Commission. The Finance Commission should include one member of the Planning Commission and two more persons, one having experience of financial administration at the Centre and the other having such experience in a State. While supporting the existing practice of consulting the Chief Ministers in the appointment of Governors, the ARC recommended that guidelines be formulated on the manner in which the Governor should exercise his discretionary powers.

#### QUESTION OF MORE AUTONOMY RAISED AGAIN

Chief Ministers of West Bengal, Jammu-Kashmir, Tamil Nadu and Punjab are 'generally agreed that the question of centre-state relations has assumed new significance' in view of the profound changes in the Indian political situation. They are also agreed that unity of the country could only be the outcome of a conscious voluntary effort of the people of different States and could not be imposed from above.<sup>1</sup>

But the case for greater powers, including financial ones, for the states is valid up to a point. Such decentralisation would be in line with the Janata Government's commitment to undoing the excessive centralisation that was both the cause and effect of the emergency. During the emergency and in the preceding two or three years, the Central Government deliberately set about whittling down states' powers and strengthening its own. But long before that, in fact ever since 1947, the political and economic compulsions—the need to preserve the country's unity and security and to promote

<sup>1</sup> *The Times of India*, 25 October 1977.

the balanced growth of different regions—made for a stronger Centre. These compulsions have not disappeared with the change of government in New Delhi; they will not just go away nor can they be wished away. What can be done now is to free the states of the vice-like grip in which the previous Central Government had held them. But it does not follow that it should lose its authority over the states. This is neither possible nor desirable.

The West Bengal finance minister, Dr. Ashok Mitra, has complained, for example, that while several states earn foreign exchange, it is New Delhi which decides how it is to be spent. Is he suggesting that the sole keeper of foreign exchange should be the states which earn it? In that case, those states which, for various historical, geographical and other fortuitous reasons, are well-placed to export goods and earn foreign exchange (Kerala, Maharashtra, West Bengal, for instance) will dispose of these foreign exchange earnings and thus make nonsense of national planning and development. The decision on how best to distribute resources for development has to be taken from a national, not a parochial standpoint and no one is better qualified to take it than the Central Government. It is true that the increasing reliance of the states on the Centre for financial support for their plans has tended to cramp their style. But what prevents them from trying more determinedly than hitherto to raise resources? Dr. Mitra himself chose to be non-committal on the imposition of agricultural income-tax while the Maharashtra revenue minister has just told the state legislative council that the Raj Committee's proposal to levy such a tax is not acceptable to his government. Finally, many state governments conveniently forget that decentralisation is not merely a matter of giving more powers to the states; it also entails giving more powers to all local bodies within states. Yet, throughout the country, more and more of these bodies are being superseded and elections to them are repeatedly postponed on one pretext or another.<sup>1</sup>

But all said and done, the review of Centre-State relations seems necessary to set these relations straight and to set aside all the futile thinking that some states are doing thus paving a way for more and lasting cordiality between the Centre and the States.

<sup>1</sup> *The Times of India*, 29 July 1977.

## CHAPTER IX

# STATE ADMINISTRATION

### I. THE SECRETARIAT

#### INTRODUCTORY

At the very outset we may note the following features of public administration in the States : (1) Administration at the State level operates in the context of national uniformity and local diversities. The diversities are Intra-State and Inter-State, and they have micro as well as macro dimensions. (2) History, Politics and Geography exercise their impact on the functioning of the State administration. (3) Autonomy of State administration from the pressures and lobbies of the entrenched interests is difficult to maintain, because of the nature of State politics and bureaucracy. (4) If we measure the performance of the administration in any State with the yardstick of changes brought about during the last three decades, we shall find that some States have performed better than the other States. This is due to the complexity of factors operating in the body politics of the States concerned and of India as a whole.<sup>1</sup>

Similar to the practice in the Centre, the State Ministers also work on the portfolio system, each Minister being the final authority in regard to the day-to-day administration of subjects allotted to his Ministry. Only matters of policy relating to subjects with which more than one Ministry is concerned or on which there is difference of opinion between them are referred to the Cabinet, consisting of senior Ministers. A Minister may have one or more Deputy Ministers and even Parliamentary Secretaries to assist him. Some States also have Ministers of States, who hold independent charge of certain Ministries but are below the rank of Cabinet Ministers. The business of the Government is transacted under statutory rules, framed under the Constitution. 'The Rules of Business' provide, among other things, for : (a) the distribution of portfolios amongst members of the Council of Ministers; (b) the procedure of the Cabinet, including the specification of cases which are to be placed before the Cabinet; (c) the specification of cases to be submitted, before the issue of orders, to the Governor and to the

<sup>1</sup> C. P. Bhambhri, *Constitutional Frame-Work of Public Administration in Indian States*, *I. J. P. A*, July-Sept, 1976, 347-48.

Chief Minister; (d) the disposal of business in the departments of the Secretariat; and (e) the functions of the Finance Department and the Law Department.

The entire administration of the State is divided into a number of Ministries and Departments. Like the Ministries in the Union Government, the State Ministries are headed by Secretaries as their administrative heads. The State Secretaries are patterned more or less like their counterparts at the Centre. Besides Secretaries, who advise the Ministers on all matters of policy, there are Heads of Departments, whose number corresponds to the number of important subjects administered by a State. It is the departmental head who carries out the policy and programme of the Government at the head-quarters as well as in the districts through its field staff.

The Secretariat is divided into various departments, which are distinct from the departmental departments. The latter are administrative units separate from the Secretariat, e. g. the offices of the inspector-general of police, chief conservator of forests, the director of education. These are located outside the Secretariat and the head of the department is concerned with a single secretary to government and a single minister for his orders and the fund to be spent by it. The number of secretariat departments is greater than the number of secretaries, as each secretary may have charge of more than one department. Consequently, a secretary to government may have to deal with more than one minister and a single minister may have to deal with more than one secretary to government. The actual number of departments in the secretariat differs from State to State; whereas U. P. has 48 departments, Bihar has only 19.

Secretariat departments are sub-divided into branches, branches into sections and sections into sub-sections. Normally, the gradation of secretariat officers is as follows : Secretary, Additional Secretary, Joint Secretary, Deputy Secretary and Under-Secretary. To every officer there may be an additional, *i. e.* there may be an additional deputy secretary or additional under-secretary. In some departments there are special secretaries as well. An additional secretary discharges the functions of a secretary with respect to matters committed to his charge, and functions almost independently of the secretary. The special secretary also functions in the same manner.

Normally the following matters are dealt with in the Secretariat—

*General Matters :* (i) All matters of general policy; (ii) Inter-departmental co-ordination; (iii) Matters involving the framing of new legal enactments or rules or amendments in the existing ones. Cases involving interpretation or relaxation of existing rules or government orders; (iv) Correspondence with Government of India and other State Governments; (v) All matters relating to the preparation or adoption of new plan schemes and important modifications in

the existing schemes; (vi) Review of the progress of the plan schemes both physical and financial; (vii) Inspection reports and tour notes recorded by Heads of Departments; (viii) All-India conferences and important conferences at the State level; (ix) Public Accounts Committee, Estimates Committee, Assembly/Parliament questions; (x) Delegation of powers, etc.

*Financial Matters* : (i) Scrutiny and approval of departmental budget estimates, major appropriation of accounts, surrender of funds and supplementary grants; (ii) All proposals involving new items of expenditure; (iii) Financial sanctions not within the competence of the Head of the Department; (iv) Sanction of expenditure from Contingency Fund; (v) Write-off cases beyond the powers of the Heads of Departments and audit objections regarding the offices of the Heads of Departments, etc.

*Service Matters* : (i) Approval of service rules and amendments thereto ; (ii) Papers relating to senior appointments/promotions/transfers of the Deputy Heads of Departments and above all the cases of disciplinary proceedings against these officers; (iii) Initial appointment of officers belonging to the State service and infliction of major punishments on them; (iv) Creation of posts, their extension and continuance, re-employment, resignation, special pay and allowances and pensions not within the powers of the Heads of Departments, etc.

The Secretarial work of the Government is in the charge of several secretaries to Government, each one having the charge of one or more departments of the Secretariat, with a Chief Secretary who is in general charge of the entire Secretariat organisation and who is also Secretary to the Cabinet. By virtue of his unique position as head of the official machinery and adviser to the Council of Ministers, the Chief Secretary plays an extremely important role in the State administration. Apart from attending to the work of the departments which are directly under him, he is in a position to effectively co-ordinate the work of different Secretariat departments and ensure that there is a certain degree of uniformity in the policies adopted by the State Government with respect to different departments.

The number of Secretaries varies from State to State and according to needs from time to time. Secretaries are responsible for the proper functioning of the Secretariat departments under their charge and are responsible to the Ministers in-charge for carrying out the orders of the Cabinet and of the Ministers in-charge properly and expeditiously. They are assisted in their work by Additional or Joint Secretaries, Deputy and Under Secretaries, whose number varies according to the size of the department under a Secretary.

Under the rules of Business the responsibility for the disposal of work in a department rests with the Minister who, collectively

through the Cabinet, is responsible to the Legislative Assembly. Accordingly orders are passed without reference to the Minister incharge only in matters of routine. However, the Ministers are kept in touch with all cases disposed off in their portfolios by receiving weekly lists of cases disposed off by the departmental Secretaries and the subordinate Secretaries. The orders of Government in the various departments are issued under the signature of a Secretary, or a subordinate Secretary; but the orders are expressed as having been made in the name of the Governor. In cases involving financial sanction a copy of the orders is transmitted to the Accountant-General under the signature of an officer of the Finance Department.

A Secretary to Government has to ensure the proper working of executive departments and the district administration and this would not be possible if a Minister short-circuits the Secretary and issues instructions orally or otherwise to these subordinate authorities. This, of course, applies only to important matters and not to trivial or urgent cases which a Minister has to dispose off during his tours.

The Secretary as the administrative head of the Department is responsible for its smooth working; and has three-fold functions; (i) he is the principal adviser to his departmental minister in all important matters of policy and administration; (ii) he is responsible for efficient administration of the Department; and (iii) he represents the Department before the legislative committees, especially before the Public Accounts Committee in order to give an account of its financial administration. With the approval of the Departmental Minister, an Additional, Joint, Deputy or Under-Secretary may be authorised to dispose off specified classes of cases without the intervention of the Secretary provided that : (a) the Secretary may require cases of importance with the delegated classes to be submitted through him, (b) all cases on return from the minister, shall pass through the Secretary, and (c) the Secretary retains the right of intervention in any such case at any stage.

An Additional Secretary or Joint Secretary is usually in-charge of a wing with full authority to dispose off business in his charge. A Deputy Secretary controls a division, comprising of branches, each of which may be in-charge of an Under-Secretary or Assistant Secretary. The duties of an Assistant or Under-Secretary are inter alia classification of the receipts, inspection of the office, checking up the diary, registers and log-books, etc. He is also responsible for proper disposal of business within the powers delegated to him. His duty is to keep the Secretary informed with the working of the Department. If there is a Registrar in the Department, he is entrusted with some of the duties of Under-Secretary or Assistant Secretary.<sup>1</sup> The duties of a Registrar inter alia include the following; (a) to report and comply with the instructions of the Under-Secretary/Assistant

<sup>1</sup> Some States, e. g. Orissa, have Registrars in Some Departments.

Secretary of the Department; (b) to be responsible for the discipline of the office staff; (c) to keep the attendance register to see that assistant arrives in office in time; (d) to keep the confidential reports of the office staff; and (e) to attend to the needs of the office in respect of forms, stationery and articles of furniture, to check the stock of stationery, etc. quarterly, and to see that there is no wastage. The Registrar may be in-charge of Joint Issue Section, Record Room, Library and any other routine matters.

The Chief Secretary occupies the key-post in the Secretariat administration. Besides the duty of seeing to proper transaction of the regular Secretariat business allotted to him, the Chief Secretary has the following special functions : (a) Superintending control over the whole Secretariat; (b) Responsibility of all other matters not falling within the categories of subjects assigned to other Secretaries; and (c) The Chief Secretary may, on the orders of the Chief Minister, or of any Minister or Deputy Minister, or of his own accord, ask to see papers relating to any case in any department and any such request by him is complied with by the Secretary of the department concerned.

Unlike the Central Secretariat, there is no separate Secretary to Cabinet in States. The Chief Secretary, thus, also acts as the Cabinet Secretary. In this capacity, he is a liaison officer between political and permanent (non-political) executives. All files for the decision of the Cabinet must pass through him. The crowning position of the Chief Secretary makes him the key-stone of the Secretariat. He is the real ruler in the State in the sense that his words are commands for all the employees of the State. With him lies the real responsibility of co-ordination of the Government work and he stands as the bulwark of administrative structure of the Government.

The officers enumerated above are, generally speaking, not secretariat officers. They belong to the general administrative Civil Service, and work in districts as well as in the Secretariat by turn. According to the Simon Commission Report, 'It is an accepted principle that efficient secretariat service, both in the provinces and in Delhi, depends on a constant inter-change of personnel between the districts and the Secretariat, the provinces and the Centre....' Officials below the rank of under-secretaries are secretariat officials, because they work lifelong in the Secretariat. They are : assistant secretary, superintendent, assistants (in some states classified as senior and junior and in some others as upper division and lower division) and clerks.<sup>1</sup>

Each department of the Secretariat normally has four categories of clerks : (i) clerks designated as 'drafters', who record preliminary notes on cases and who prepare formal drafts of the orders passed; (ii) reference clerks who maintain an index of the old and current

<sup>1</sup> J. D. Shukla, *State and District Administration in India*, 365-66.



cases, put them up when required and are generally in-charge of the records in the department; (iii) routine clerks, who maintain a diary of letters received in, and issued from, the Secretariat; and (iv) typists. Each department is in-charge of a Superintendent who passes the work of the drafters and looks to the general arrangements and distribution of work in the department.

#### SECRETARIAT PROCEDURE

It differs from secretariat to secretariat, as there are some differences between the Tottenham system followed in Tamil Nadu and the Maxwell system followed in Maharashtra. But broadly speaking the two systems do not differ in any vital respect. The general position regarding receipt, indexing, filing, dealing, recording and general handling of correspondence may be summarised here. Usually there is a centralised section with a number of UDC's and LDC's in which all dak addressed to the Secretariat is received. All dak except that addressed by name or marked 'Secret' or 'Confidential' is opened and marked to the officers concerned or section head.

The section head receives the dak of the section and shows it to the under-secretary, so that he may in urgent and important cases immediately bring the papers to the notice of the secretary; thereafter the section head marks the dak to the dealing assistants and sometimes also adds instructions. The dealing assistant places the receipt on the relevant file or opens a new file, and after making necessary entries in registers examines the receipts and puts up notes and sometimes even drafts. The receipt then goes to the section head, who scrutinises the note and the draft and sends it to the officer concerned who passes orders and approves the draft. Then the receipt goes back to the section head, and from him through the assistant to the typing section. From there the fair copy together with the file goes back to the officer who signs it. Thereafter the file goes back to the dealing assistant, who makes necessary entries in the register and sends the file to the dispatch section, which after dispatching the issue and stamping the office copy returns the file to the dealing assistant, who finally closes the file or awaits further action.<sup>1</sup>

## II. THE HEADS OF (EXECUTIVE) DEPARTMENTS

Most of the departments of the Secretariat have heads of departments and principal heads of offices under their administrative control, who act as the executive authorities of the Government. 'Heads of Departments' are officers who are in overall charge of the actual administration of specific services or administration and execution of projects e. g. Commissioners of Divisions, Director of Education,

<sup>1</sup> *Ibid.*, 366-67.

Director of Industries, Inspector-General of Police, Transport Commissioner, Chief Engineers, etc. There are also Heads of Departments who are responsible for the collection of taxes and administration of laws relating to taxation, such as Board of Revenue, Commissioner Sales Tax, etc.

Government exercises control over the working of heads of departments through 'administrative departments of the State Secretariat'. The funds voted by the legislature are placed by the Finance Department and the administrative department concerned at the disposal of the heads of departments. It is only in respect of a few specified matters that certain funds are retained at the disposal of the Minister in-charge. They are responsible to the Government for proper utilization of the funds so placed at their disposal and to render accounts to the Accountant-General, and through him to the Public Accounts Committee and the Legislature.

The running schemes are administered by Heads of Departments according to pattern which had in the past received Government's sanction. New schemes are first considered by the Government either of their own accord or on reference made by Heads of Departments and such provisions as are considered necessary, are made in the budget. After the budget has been passed, they are directed to carry out the schemes according to the pattern formulated by the Government and approved by the Legislature at the time the grant is voted. In conveying this authorization, each Head of Department is informed about the number of posts sanctioned for the scheme with their rates of pay and about other funds available to him for the execution of the departmental schemes.

A Head of Department enjoys specified financial and administrative powers delegated to him by the Government. Similarly, a Principal Head of Office also exercises such powers, but on a lower scale, and is in-charge of organizations smaller than those under a Head of Department. They are directly responsible to the Government for a proper working of their Departments and for implementation of schemes and government policies in various fields. Except for the matters in which they are competent to take final decisions, all other issues are referred by them to Government for orders.

A Head of Department (as also a Principal Head of Office) has under him officers in-charge at regional or district level. There is in every district a representative of almost each department, Supervision over departmental activities in a specified number of districts is done by a Regional Officer, e. g. Deputy Director of Education, Deputy Director of Agriculture, Deputy Registrar of Cooperative Societies, Regional Food Controller, Regional Marketing Officer, General Manager of Roadways, Regional Transport Officer, Assistant

Excise Commissioner, etc. Though overall superintendence of the departmental activities vests in a Head of Department or a Principal Head of Office, the Collector or a Deputy Commissioner of a district is kept in touch with those activities by the departmental district representative. A 'Head of Office' which means the highest gazetted officer of a local office, also exercises individually or generally, some of the specified financial and administrative powers, as are exercised by a Head of a Department or a Principal Head of Office, but on a yet lower scale.

The Heads of Departments enjoy specified financial and administrative powers delegated by the Government. Thus the Heads of Departments occupy a key position in the executive branch of the Government. It is mainly their zeal, energy and drive which sets the pace for the working of the entire department. In such vital matters as the nature and quantum of supervision over the work of subordinate offices and functionaries maintenance of high standards of technical efficiency, prompt and effective implementation of the policies and programme of the State Government, making an earnest effort to understand the problems of sister departments and offering necessary cooperation to them and having a receptive and sympathetic attitude towards the problems of the people with whom the department comes into contact, it is largely the lead given by the Heads of the Departments which determines the attitude and behaviour patterns of the subordinate officers. A solemn duty, therefore, rests with the Heads of Departments to inculcate in the subordinate officers the right attitude towards their work as well as the people.

According to J. D. Shukla, the present system of having a general administrator as secretary to government and an expert at the head of the department enables the government to have the benefit of the expert view and the general administrative view on a particular issue; and also leaves the expert comparatively more time to execute policy and execute those works for which he is by training and experience best fitted. But there has been much discussion on this point; the Bombay Administrative Enquiry Committee which went into the subject very thoroughly said : 'Almost all heads of departments have stated before us that in their view it is expedient that they should be made secretaries or joint secretaries to government for their respective departments.'

### III. ORGANISATION OF DEPARTMENTS : LAW OFFICERS AND THE HOME DEPARTMENT IN U.P.

After Independence, the State took on itself the paramount task of the development of its economic resources. Phenomenal growth of the Secretariat and the field departments took place on

this account. The Secretariat work is distributed amongst the following forty-eight departments which, except for a few, are subdivided into two or more sections: (1) Appointment, (2) Confidential, (3) Vigilance, (4) Civil Defence, (5) Cultural Affairs and Scientific Research, (6) General Administration, (Reorganization), (8) Language, (9) Secretariat Administration, (10) Petitions, (11) Finance, (12) Public Works, (13) Irrigation, (14) Power, (15) Agriculture, (16) Animal Husbandry and Fisheries, (17) Forests, (18) Co-operative and Cane Development, (19) Home (Police), (20) Home (Jails), (21) Home (General), (22) Judicial, (23) Legislative, (24) Elections, (25) Revenue, (26) Revenue (Scarcity), (27) Education, (28) Technical Education, (29) Harijan Sahayak, (30) Social Welfare, (31) Municipal, (32) Local Self-Government, (33) Housing, (34) Excise, (35) Information, (36) Relief and Rehabilitation, (37) Panchayati Raj, (38) Community Development, (39) Planning, (40) Labour, (41) Transport, (42) Medical, (43) Public Health, (44) Food and Civil Supplies, (45) Rent Control, (46) Border Development, and (47) National Integration since July 1968.

#### LAW OFFICERS

The Advocate General is appointed under Article 165 of the Constitution of India and holds office during the pleasure of the Governor. This being a statutory appointment, the Advocate-General performs all such functions as are enjoined on him by law. He is the highest legal adviser to the Government and appears on behalf of the State in almost all important cases in the Supreme Court and the High Court and also in any subordinate court, whenever asked by the Government. The Advocate-General is the Public Prosecutor under section 492 of the Code of Criminal Procedure in all cases coming up before the High Court in exercise of its original criminal jurisdiction. His legislative function is to examine all Bills which are drafted by the departments concerned and are submitted to him through the Legal Remembrancer. He is required to be present at the seat of Government while either House of the Legislature is in session and also to attend its meetings. He attends all meetings of select committees on Bills introduced in either House of the Legislature and such other committees as he may, by general or special order of the Government, be directed to attend.

The Advocate-General cannot advise or appear against the Government in any case in the High Court or in any subordinate court. Subject to this, he has a right to practise without restriction. Unless he obtains sanction of the Government he cannot accept any appointment as Director in any company and cannot withdraw any prosecution. For administrative purpose he enjoys the status of a

Head of Department. His headquarters are at Allahabad and he has his own office and staff. He also maintains a camp office at Lucknow. He is in overall charge of the State Law Officers at the High Court and their staff and supervises the work of Government Advocate, his deputies and Assistants, Chief Standing Counsel and his juniors who assist him whenever so required by him. A Minister of the State Government can consult the Advocate-General direct, he being the Chief Legal Adviser of the State, but all references from Departments of the Secretariat are to be routed to him through the Legal Remembrancer to the Government.

#### LAW OFFICERS AT THE HIGH COURT

On the Civil side next to the Advocate-General there is an officer designated as Chief Standing Counsel at Allahabad. He has under him four standing Counsels and, normally, these five officers are expected to conduct all the civil cases in the High Court at Allahabad in which the Government is a party. However, at times their hands are too full and on such occasions work is entrusted to approved Brief Holders. There is also a Counsel who attends to cases relating to consolidation of holdings. The Chief Standing Counsel at Lucknow Bench has under him only one Standing Counsel.

On the Criminal side the Government Advocate at Allahabad and the Government Advocate at Lucknow attend to criminal litigation in the respective Benches of the High Court at Allahabad and Lucknow. The Government Advocate at Allahabad is assisted by two Deputy Government Advocates and three Assistant Government Advocates. Normally these six officers are expected to do the entire criminal work but for occasional help a panel of approved lawyers is maintained. The Government Advocate at Lucknow is similarly assisted by an Assistant Government Advocate. All the Officers on the criminal side at Allahabad and Lucknow, except those on the panel, are salaried officers.

The Government Advocate and the Chief Standing Counsel at Allahabad have a combined office. Similarly there is a combined office for the law officers at Lucknow. Expenditure on these offices is controlled by the Legal Membrancer and is met from the budget for Administration of Justice. Since 1955, a Superintendent of Litigation at Allahabad looks after and supervises the offices of the Advocate General and other law officers at Allahabad and Lucknow. The Advocate-General appears only in cases involving difficult issues in which Government is specially interested. Other cases are handled by the law officers of the civil or criminal side according to their importance. The Chief Standing Counsel usually takes cases which are more intricate and of higher valuation. Similarly, important criminal cases such as cases in which capital punishment has been

awarded, usually go to the Government advocates

#### THE HOME (POLICE DEPARTMENT)

The portfolio of Police is held by the Home Minister. The Secretariat Staff comprises of Commissioner and Secretary, Home 1, Deputy Secretaries 3, Under Secretary 1, Assistant Secretaries 2, Superintendents 10. The Department has the following ten sections : Police A, Police B-I. and B-II, Police C-I, II and III, Police D-1, II and III, Police E.

#### IV. ORGANISATION OF THE FINANCE DEPARTMENT IN U. P.

The portfolio of Finance is held by the Minister for Finance. Its Secretariat Officers comprise :

Commissioner and Secretary, Finance	1
Director, National Savings, UP	1
Special Secretary	1
Joint Secretary	1
Deputy Secretaries (one is also Deputy Director, National Savings and another is also Director of Treasuries)	8
Under Secretaries	3
Assistant Secretaries	5
Superintendents	13
Vitta Adhikari (Zila Parishad)	1
Research Officers	2

The Department has the following sections : Accounts-I, Accounts-II, Budget-I, Budget-II, Expenditure Control-I, II and III, Coordination, General-I and II, Service, Audit and Sales Tax, Planning and Resources.

The duties of the Finance Department are : It examines and reports on all schemes of new expenditure, on questions relating to establishments and on taxation. It is consulted before the issue of orders upon all proposals which affect the finances of the State in particular those : (i) which relate to the number of grading or cadre of posts, the emoluments and allowances or other conditions of service and posts; (ii) which involve relinquishment of revenue or involve any grant of land or assignment of revenue or any concession or involve expenditure for which no provision has been made in the Appropriation Act ; and (iii) which involve relaxation of any financial rule or serious financial irregularity.

In accordance with rules made by the Government under Article 166 (2) and (3) of the Constitution and the instructions issued  
□ *Public Administration in India/12*

there under, it is the responsibility of the Finance Department to prepare the Annual Financial Statement or the 'Budget' to be laid before the Legislature in each year. It is prepared on the basis of the material furnished by the departmental officers and the administrative departments of the Secretariat in the manner laid down in the Budget Manual of the State government and is scrutinized by the Finance Department with due regard to the explanations furnished by the estimating officers, the comments of the Accountant-General and the recommendations of the administrative departments concerned.

All receipts and disbursements of the State Government are shown in separate parts :

*Part I, Consolidated Fund of the State.* All moneys received by the State Government. No money out of this fund can be appropriated except in accordance with law and for the purposes and in the manner provided in the Constitution. The expenditure is classified as follows : (i) Expenditure 'Charged' upon the Fund, which is not submitted to the Vote of the Legislative Assembly, and items which are not so 'charged', and (ii) Expenditure on (a) Revenue Account which includes expenditure met from the current income derived from taxes and duties, fines and fees, services rendered, and (b) Capital Account which includes expenditure incurred with the object either of increasing concrete assets of a material character or of reducing recurring liabilities. It is usually met from borrowed funds or accumulated cash balances. The third Account is Debt and comprises of Loans raised by Government, temporary loans classed as 'Floating Debt' as well as other loans and 'Loans and Advances' made by Government together with repayments and recoveries.

*Part II, Contingency Fund of the State.* Under Article 267 (2) of the Constitution, the State Legislature has established through the U.P. Contingency Fund Act, 1950, a Contingency Fund which is in the nature of an imprest and enables the executive to meet unforeseen expenditure of an urgent nature not contemplated in the original budget, before it can be approved by the Legislature pending authorization of such expenditure in the shape of supplementary, additional or exceptional grants by the Legislature. Receipts and disbursements in respect of certain deposits, reserve funds, etc. which do not form part of the Consolidated Fund are included in this Account. Disbursements from Public Account are not subjected to a vote by the Legislature as they are not moneys issued out of the Consolidated Fund. The main divisions of Public Accounts are (a) Unfunded Debts, Deposits and Advances, and (b) Remittances. 'Unfunded Debts' include a number of interest bearing obligations of Government in respect of funds deposited with them, such as Provident and Insurance Funds for government employees.

The Budget, including the items of new expenditure is presented

under Article 202 of the Constitution to both Houses of Legislature for a general discussion. The Budget Literature, which is supplied to the Legislature, consists of five volumes viz. Volume I—The Finance Minister's Budget Speech; Volume II—The Finance Secretary's Memorandum on the Budget containing a brief review of the finances of the State; Volume III—List of new items of expenditure included in the estimates of the budget year; Volume IV—Consolidated detailed estimates of expenditure and receipts (both plan and non-plan); and Volume V—Detailed estimates of expenditure on Plan Schemes.

Provision of funds in the budget by itself conveys no sanction to the subordinate authorities to incur expenditure. It has to be sanctioned by a competent authority except where it is covered by standing sanctions or necessary powers have been delegated to expending authorities with the concurrence of the Finance Department. It is the duty of the Controlling Officers to see that all sums due to Government are assessed regularly and promptly, realised and credited into the Government account. The Accountant General is supposed to keep a watch and immediately to report to the Finance Department any large increase or falling off in these receipts. The authority administering a grant is also responsible for watching the progress of expenditure under its control and for keeping it within the sanctioned grant or appropriation. It is the responsibility of the Finance Department to watch regularly through the administrative departments of the Secretariat and controlling officers the Government's balances and their ways and means operations.

## V. THE POLICE SET-UP IN THE STATES

The police organisation at the State level performs both staff and line functions. These functions are quite complex and have to be discharged vis-a-vis : (a) the Union Government and its auxiliary agencies, (b) the Home Department of the State Government, and (c) the Line Officials of the district police below. Some of the staff agencies operate from the State headquarters and may or may not have field units. The line functions of the State level police administration include implementation of policies pertaining to law and order and detection and investigation of crimes with the help of district units. The Home Minister, the Home Commissioner and the Home Department constitute the civilian wing of the State Police. The professional wing has its unarmed and armed components. It works under the over-all command and supervision of the IGP of the State. He has a couple of special, assistant and additional Inspectors-General of Police to aid and advise him at the police headquarters. They also administer some of the specialised police functions like



anti-corruption, vigilance, civil defence and traffic, etc. at the State level. The IGP is the chief of the State police and also chief personnel officer of his department. He has wide powers and discretions with regard to financial management and disciplinary matters in his organisation.

The DIG range exercises a general supervision over the work of the District Superintendents of Police and the latter look to him for advice, guidance, leadership and co-ordination of police work in the range. As in-charge of the specialised branch like CID, intelligence, anti-corruption, traffic, railway and armed police forces the DIG has his own independent hierarchy and functional network, depending upon the nature and scope of his operations. The Police training institutions in the States have their quasi-autonomous organisations and are generally headed by Senior Superintendents of Police. The railway police organisation follows the district and State systems of jurisdiction in different States. The armed police is called by different names in different states : PAC in UP and Rajasthan, Special Armed Police in Madhya Pradesh, Military Police in Bihar, Assam Rifles in Assam and Malabar Police in Tamil Nadu.

'The organisation of the traffic police at the State level is a recent phenomenon emerging in the wake of increasing urbanisation. At the State level the functions of the traffic police fall mostly within the arena of staff duties, such as planning, road research, coordination of district level efforts and advice to the IGP in matters pertaining to movement of heavy vehicles and road safety in the cities. The wings of women police and mounted police represent welcome additions to the State police organisations in view of the changing nature and techniques of crime, vice and public disorder in free India. The organisation of home guards sponsored and financed by the Union Government as an auxiliary unit of the State Police administration in most of the States is a statutory attempt at raising a 'citizen police' as a secondary police organisation, functioning as an adjunct to the regular police organisation of the State.'

The Police Commission system in the three metropolitan cities of Calcutta, Bombay and Madras, which free India has extended to five more capital towns of Hyderabad, Bangalore, Ahmedabad, Nagpur and Poona is a unique and very promising experiment in State Police administration. The Police Commissioners in all these cities, except Calcutta, are equivalent to DIGs in States and the Deputy and Assistant Police Commissioners have similar functions as those of SPs and Dy. SPs in State administration, respectively. The unique features of the system are its independence, autonomy and functional specialisation in urban setting. The ARC has recommended a wider application of the experiment.

'Thus the police organisation at the State level has a wide and complex network of functional and specialised agencies. It controls,

co-ordinates and supervises the work of district field agencies engaged in the execution of policy. It also provides a link between the political and administrative echelons of the machinery of the State Government. It is here that critical decisions about the problems of regulatory administration are taken, which, in turn, are pumped into the political mechanism of the Government as advice and are systematically processed and formulated into regular policy propositions. In addition to the basic 'posdcorb duties' of police administration, the staff units provide a specialised kind of police service to the district administration. As a shock absorbing buffer it has to accommodate new demands of socio-political changes in the districts and political pressures of the State Government from above.<sup>1</sup>

#### ORGANISATION OF POLICE DEPARTMENT IN U.P.

*Police Headquarters.* The Inspector-General of Police who is in overall charge of the entire Police force in the State, has his headquarters at Lucknow. All matters relating to policies and establishment of gazetted officers are dealt with by him with the assistance of an Assistant to the Inspector-General and a deputy assistant. The administrative office for Police Administration is the Police Headquarters at Allahabad under the charge of a Deputy Inspector-General of Police. The overall supervision of the Railway Police also vests in him and he is therefore, designated as Deputy Inspector-General of Police, Headquarters and Railways. All matters concerning the Police upto the rank of Inspectors including the ministerial staff as also the pensions of gazetted officers are dealt with at the Police headquarters, Allahabad. Since 1967 an additional Inspector-General of Police does all the work connected with Crime and the Criminal Investigation Department in the State. The Deputy Inspector-General of Police, Headquarters exercises all powers on behalf of the Inspector-General of Police and is the Controlling officer in respect of the entire police budget. He is assisted by a Superintendent of Police, Headquarters, and a Deputy Superintendent of Police, Headquarters. The Headquarters office consists of seventeen sections with four office superintendents dealing with Police budget allocation, appointment, transfer, pension, supply of uniform, arms and ammunition, appeals, buildings, funds, motor transports, etc.

*The Ranges.* The State has been divided into eight ranges for police administration. The Range Deputy Inspector-General of Police is responsible for efficiency of the Police within his range, which comprises of several districts. He inspects each branch of a district in his range at least once in a year and gives directions to District

<sup>1</sup> See P. D. Sharma, Public Administration in the States, *I. J. P. A.*, July-September 1976, 504-07,

Superintendents as and when necessary. He is the directing, controlling and co-ordinating authority between the districts of his range, other ranges and the Inspector-General of Police. He sends fortnightly reports of occurrences in his range to the Inspector-General of Police.

The Superintendent of Police is the executive head of the district police force. He is responsible for efficiency and discipline of the force and for ensuring maintenance of peace. He keeps contact with the people of the district and has to keep full knowledge of happening in his jurisdiction. There are under him assistant and deputy superintendents of police, circle inspectors, public prosecutors, reserve inspectors. There is a police hospital attached to the police lines in every district, which is looked after by an other officer of the PMS or by a Jail doctor. The district is divided into police circles comprising on an average of 4 to 5 police stations and the charge of a circle is held by a deputy superintendent of police. The police force in a district is divided into armed police, civil police, traffic police and mounted police. Almost all the armed police meant for guard duty is kept in police lines under the charge of a Reserve Inspector of Police. The civil police provides manpower to police stations, out-posts, contingent reserve and miscellaneous duties such as at the office of the Superintendent of Police, the Public Prosecutors, etc.

There are two types of police stations : urban and rural. The police stations are further sub-classified as first category and second category. As a result of the recommendations of police reorganisation commission, circle inspectors are now incharge of important police stations, whereas other urban and rural police stations are under the charge of sub-inspectors. Both inspectors and sub-inspectors, incharge of police stations are assisted by other sub-inspectors, head constables and constables.

The mounted police is mainly used for patrolling roads conveying communications of special urgency, ceremonial escorts, traffic control, controlling crowds in big fairs and festivals, etc. It is stationed at Agra, Allahabad, Faizabad, Kanpur, Lucknow, Meerut and Varanasi. A small unit is also attached to the Police Training College, Moradabad. There is also a small River Police stationed at Allahabad, Kanpur and Varanasi.

Each district has a prosecution branch. The duty of an investigating officer is to enquire into the facts of an alleged crime. The process initiated by the police is continued by the police through enquiry and trial before a magistrate where the public prosecutor conducts proceedings on behalf of the police. The prosecutor also advises the police on legal matters arising in the course of investigation. There is in each district one public prosecutor except in Kanpur where there are two, and three to ten assistant public

prosecutors according to the need of the district. In the important cities of Agra, Aligarh, Allahabad, Kanpur, Lucknow, Meerut and Varanasi there is a Senior Public Prosecutor of the rank of deputy superintendent of police. A Senior Public Prosecutor is also attached to the office of the Government Advocate in the High Court of Judicature at Allahabad.

In the end, we may briefly mention the functions of the Police. Broadly speaking, they fall in three groups : (1) Crime, (2) Law and Order, and (3) Miscellaneous. Under the head crime, the important functions are : (a) prevention, (b) investigation and detection, and (c) prosecution of crime. The prevention of crime includes : (i) the invoking of aid of prevention sections of criminal procedure code, (ii) registration and surveillance of bad characters, and (iii) control of criminal tribes. The duties in connection with law and order do not concern any special type of crime. The police is concerned with the general law and order situation, which may be disturbed on account of political agitations, communal riots or internal disturbances. The police keeps a vigilant watch over the situation and takes preventive action in connection with the following : communal situation, festivals, agrarian trouble, industrial strikes, subversive political parties, etc. The miscellaneous functions include : (i) execution of processes of criminal courts, (ii) providing of patrols, pickets, guards and escorts, (iii) regulation of crowds and traffic, (iv) duties at fairs and ceremonial functions, (v) duties in connection with famine, floods, fire etc. (vi) inquests and post-mortems, and (vii) enforcement of various state and local laws.

## VI. THE BOARD OF REVENUE AND THE DIVISIONAL COMMISSIONER

### THE BOARD OF REVENUE

In terms of the intermediate links between the State Government and the districts, there are two board models : Tamil Nadu model with only one intervening link, and the Other model with two links. The Tamil Nadu model, also found in Andhra Pradesh and Kerala has only one intermediate revenue agency, the Board of Revenue. In the other model, besides the Board of Revenue, there are also the Divisional Commissioners. But in Punjab, Haryana and Jammu-Kashmir, although there are two links, yet in place of the Board of Revenue, each State has the Financial Commissioner. In Maharashtra and Gujarat, the two intervening links are : the Revenue Tribunal (in place of the Board of Revenue) and the Divisional Commissioners.

The Maharashtra Board of Revenue consists of 15 members including the President. The Divisional Commissioners are its ex-officio members. The Gujarat Revenue Tribunal has only 8 members—

President, four non-official members and three divisional commissioners. In both the states, the judicial work relating to revenue administration is performed by the Tribunal, but the revenue administration has been-centralised in the Revenue Department. Punjab, Haryana and Jammu-Kashmir have financial Commissioners. There are three in Punjab in-charge of revenue, taxation and planning. They are secretaries to the Government or heads of certain departments. The two Financial Commissioners in-charge of revenue and administration constitute the final court of appeal in revenue matters. Jammu-Kashmir has only one Financial Commissioner, who is in-charge of the entire revenue administration. He exercises control over all the revenue officers and courts in the State; and he also advises the Government in Matters relating to land administration.<sup>1</sup>

A board of revenue has administrative as well as judicial functions. On the judicial side, it is the highest revenue court and as such hears appeals from Divisional Commissioners. On the administrative side it is responsible for the administration of the revenue laws and revenue policies of the State Government. It also controls subordinate revenue establishments and land records staff. An idea of its constitution, functions and duties may be had from a description of the Tamil Nadu Board, which is the oldest. At present the Board consists of four members (who are very senior administrative officers), viz. (1) Commissioner of Land Revenue, (2) Commissioner of Commercial Taxes, (3) Commissioner of Settlement of Estates, and (4) Commissioner of Civil Supplies and Food Production. Rules of business have prescribed as to which questions are to be decided by the full Board, which by two members and which by a single member.

In U.P. the Board of Revenue, before Independence was a compact body, which besides being the highest revenue court in the State, also dealt with several administrative subjects, e. g. surveys and settlements, land records and land record staff, tahsildars and naib-tahsildars, divisional and district establishments, agricultural income tax, collection of canal dues, etc. But in 1951 the revenue administration work was transferred to a newly created officer, called the Land Reforms Commissioner, who was also made incharge of land reforms. Some other administrative duties were also taken away from the Board and made over to the Land Reforms Commissioner, some of the important functions in this category being government loans to agriculturists (taccavi), agricultural income tax, territorial changes, consolidation, surveys and settlements, control of tahsildars and naib-tahsildars, collection of canal and other dues, etc. But after some years, the position as it was before these changes were made was restored.

<sup>1</sup>With more legislation and more direct contacts between the

<sup>1</sup> See S. R. Maheshwari, *Indian Administration*, 384-88.

public and Government at various points, the independence of the Board of Revenue has been affected. The actual position has been modified as may be seen with reference to the same points which were noted as illustrating the utility of the Board. In establishment matters, appointments and punishments, complaints can easily be brought to the Government who cannot ignore them and must look into the cases. The powers of the Board of Revenue, therefore, have been whittled down in some cases, but more important, their independent position has been to some extent affected. In some States the question of abolition has been debated but on the whole the Boards of Revenue continue to perform useful functions and it is arguable that in the new circumstances the Boards may have to play an important, though slightly different, role. They continue everywhere as the highest revenue courts.<sup>1</sup>

#### THE DIVISIONAL COMMISSIONERS IN U.P.

For a long time the ten Divisions, viz. Meerut, Agra, Rohilkhand, Lucknow, Faizabad, Gorakhpur, Banaras (now Varanasi), Allahabad, Jhansi and Kumaun, functioned with nine Commissioners, the Kumaun Division being under the charge of the Deputy Commissioner, Nainital, since 1933 when the post of Commissioner, Kumaun Division was abolished. In 1947, it was decided to relieve the Commissioners of their routine duties and also of the judicial case work. Their number was reduced from nine to five, with the distribution of charges grouped as below :

1. Commissioner, Meerut-Agra Divisions with headquarters at Meerut.
2. Commissioner, Rohilkhand Divisions with Headquarters at Bareilly.
3. Commissioner, Allahabad-Jhansi Divisions with Headquarters at Allahabad.
4. Commissioner, Banaras-Gorakhpur Divisions with headquarters at Banaras, and
5. Commissioner, Lucknow-Faizabad Divisions with headquarters at Faizabad.

It was hoped that the reduced number of Commissioners would be adequate to provide the chief supervisory agency for Government in matters of revenue administration and, notwithstanding the reduction in number, Commissioners being senior officers would continue to impart to district administration guidance even in spheres other than those of revenue administration. In August, 1952, as a further measure of reorganisation, the number was reduced to three with the following redistribution of the charges : (1) Commissioner, Meerut-Agra-Rohilkhand Divisions with headquarters at Meerut ; (2) Commissioner, Allahabad-Jhansi-Banaras Divisions with headquarters at

<sup>1</sup> J. D. Shukla, *op. cit.*, 346-54.

Allahabad, and (3) Commissioner, Lucknow-Faizabad-Gorakhpur Divisions with headquarters at Lucknow.

With the growth of self-governing institutions and the increase in their functions and the growing political consciousness, the volume of work increased considerably particularly with the introduction of planning and development. So with effect from 1 August 1953, the following readjustments of charges of the Commissioners were made :

- |                               |   |  |
|-------------------------------|---|--|
| 1. Allahabad Division         | } | Each under a Commissioner.                                       |
| 2. Banaras-Gorakhpur Division |   |  |
| 3. Lucknow-Faizabad Division  |   |  |
| 4. Meerut-Agra Division       |   |  |
| 5. Rohilkhand Division        | } | Each under a Collector/Deputy Commissioner-in-charge of Division |
| 6. Jhansi Division            |   |  |
| 7. Kumaun Division            |   |  |

From the experience gained of the working, the following changes were further made : (a) the post of a full-fledged Commissioner, Rohilkhand Division, was revived with effect from 23 February 1955, and (b) the following combined charges of Commissionerships were split up in 1955, as it was found that one Commissioner could not move about effectively in two divisions : (i) Meerut-Agra Division, (ii) Banaras-Gorakhpur Division, and (iii) Lucknow-Faizabad Division.

The number of Commissioners was thus raised to eight in addition to the Collector, Jhansi as incharge of Jhansi Division and the Deputy Commissioner, Nainital as incharge of Kumaun Division. With effect from 25 June 1967, the latter two divisions were also placed each under a Commissioner. The northern sub-divisions of Uttar Kashi, Chamoli and Pithoragarh of Tehri Garhwal, Garhwal and Almora districts respectively were subsequently split, upgraded into separate districts and were grouped into a new Uttarakhand Division on 24 February 1960. On 20 December 1968, however, the Uttarakhand Division was abolished, the district of Pithoragarh was added to Kumaun Division and a new Division named Garhwal with headquarters at Pauri was formed with the districts of Garhwal and Tehri-Garhwal from Kumaun Division and the districts of Uttar Kashi and Chamoli from Uttarakhand Division. Early in 1977 the Rohilkhand division was split into two—Moradabad and Bareilly Divisions, but the two parts were again combined into one division, Bijnor District having been added to Meerut Division. The State is thus divided at present in 11 divisions comprising fifty-six districts including Ghaziabad and Kanpur Rural (abolished in July 1977).

When the number of Commissioners was reduced, the duties taken away from the Commissioner were re-allocated between the District Officers, the Land Reforms Commissioner and the Board of Revenue. With the growth of local self-governing institutions and

the increase in their functions and the growing political consciousness, the volume of work with which the administration had to deal increased considerably. There was considerable increase in planning and development work also. The work needed close attention of senior officers like Commissioners. In 1954, therefore, the Commissioner was entrusted with the work of efficient supervision of planning and development in the districts, as also co-ordination and supervision of the different wings of public administration in the division, including law and order and ensuring efficiency. He was for this purpose required to tour for about twenty days every month.

He was also to guide district officers as well as solve inter-departmental problems and assess the work of officers of the various departments in-charge of planning and development schemes in the district by recording his own remarks upon the reports forwarded by the District Officers before sending them on to the heads of departments concerned. He was also entrusted with the duty of recording his views in the annual character rolls of the respective officers. Heads of Departments were required to keep in touch with him to secure his help in solving their problems and to direct the district and regional officers to maintain necessary contacts with the Commissioner and to seek his guidance, help and advice in such matters. Thus many of his functions and duties were revived and in addition he was charged with the responsibility of supervising developmental activities in his Division. No significant changes in the duties and functions of the Commissioner were subsequently made except that since 1 October 1962 the issue of licences for semi-automatic fire arms no longer required the concurrence of the Commissioner and that in 1967 after the separation of judiciary from the executive, Judicial Officers were transferred to the charge of the High Court of Judicature and the supervision over the work of Additional District Magistrates (Judicial) and Judicial Officers was withdrawn from the purview of the Commissioner and transferred to the District Judge instead.

A Commissioner of Division has to keep a vigilant eye on the developmental activities going on in the districts within his division. He now reports directly on the Regional Officers of Agriculture, Co-operative, Cane Development, Minor Irrigation, Animal Husbandry, Fisheries, Community Development, Panchayati Raj and Irrigation (Tubewells) Departments, through the Heads of Department concerned, to the Commissioner and Secretary, Agricultural Production and Rural Development, who is incharge of those departments. He also reports to the concerned Head of Department, through the Commissioner and Secretary, Agricultural Production and Rural Department, in respect of the Regional Officers of Education, Public Health, Medical, Economics and Statistics, Industries Forests,



Agricultural Engineering, Harijan Sahayak, Prantiya Rakshak Dal and Social Welfare Departments as also on officers of the Information and Publicity Department, if any, posted in the Division.<sup>1</sup>

The post of the Divisional Commissioner is extremely useful as the highest field administrative authority, and the Government can stand to benefit by strengthening it and placing increasing reliance on the incumbent of the post of the Divisional Commissioner, for effective and orderly implementation of the programmes. This can be done in three ways : (1) by allowing a greater degree of delegation and decentralisation at the divisional level ; (2) by underlining the importance of coordination of the work of the departments through the Divisional Commissioner ; and (3) using the Divisional Commissioner as advisor in formulating policies.

Of late, centrifugal departmental tendencies seem to be getting an upper hand and this is not conducive to an integrated and coordinated administration which is necessary for the realisation of the objectives of Government. These tendencies can be curbed by underlining and strengthening in a practical manner the coordinating role of the Divisional Commissioner. Also policy formulation can gain immensely by prior consultation with the Divisional Commissioners since policies will then bear the imprint of feedback from the field and grassroot practical experience.<sup>2</sup>

Addressing the three-day conference of the divisional Commissioners, on its concluding day (1 November 1975), U. P. Chief Minister said : 'We want to vest the Commissioners with more powers so that wherever they find any difficulty or conflict in implementing Government policies and programmes, their voice prevails and is regarded as final.' The basic purpose of the government was not merely good administration but to govern in such a manner as to release those forces which would help the nation tide over its difficulties. A new concept of administration had to be evolved round this basic promise to create a climate of change, he observed.

## VII. STATE SERVICES

The Civil services of the country have been classified into all-India services, central services—class I to IV, State services, specialised services and subordinate services. The State services in most of the States have been broadly classified into the following categories (1) Administrative services, State judicial services and the other services like sales tax officers, inspectors of schools, etc., (2) Technical

<sup>1</sup> See M. Zaher and Jagdeo Gupta, *The Organisation of the Government of U. P.*, 701-02 and 710-11.

<sup>2</sup> See P. R. Dubhashi's, 'Divisional Commissioner', *I. J. P. A.*, Jan-March 1977, 7-8.

services include engineers, doctors and other technicians, (3) Sub-ordinate services.

#### SERVICES UNDER THE RULE-MAKING CONTROL OF THE CENTRAL GOVERNMENT

The all-India services with which the State Governments are at present concerned, are : (i) The Indian Civil Service and the Indian Administrative Service, both included in the Indian Administrative Service Cadre, and (ii) the Indian Police Service. These all-India Services are common to the Union and the States and they serve both the Central as well as the State Governments. The strength of each of these services has been determined with reference to the needs of the Union and of the States. There are separate cadres for each State for these services, known as State cadres of the IAS or the IPS. Members of these services are governed, so far as their conditions of services are concerned, by the rules made by the Central Government.

#### SERVICES UNDER THE RULE-MAKING CONTROL OF THE STATE GOVERNMENT

The State Government exercises power to make rules providing for the making of first appointment, methods of recruitment, number and character of posts and conditions of service, pay and allowances and pensions in respect of the Provincial (now State) services and their subordinate services. It is the final authority in respect of matters connected with such services and no appeal or representation lies to any other authority outside the State.

State services consist of such services as the State Government may from time to time declare by notification in the Official Gazette to be included in that category. The services under the State Government are either 'gazetted' or 'non-gazetted'. A gazetted officer is usually one who holds charge of an office. His duties are mostly supervisory or directory. His appointment, leave, transfer or posting is notified in the Gazette. On the recommendations of the Committee for the rationalisation of the scales of pay and other conditions of service of various grades of the State Government employees appointed in July 1964 the general pattern of State services now is as follows :

Status	Pay-range	Classification
Gazetted	The maximum of the pay scale of the post exceeds Rs. 900/-	Class I
Gazetted	The maximum of the pay scale of the post does not exceed Rs. 900/-	Class II
Non-Gazetted	The minimum of the pay scale of the post is Rs. 100 or above	Class III
Non-Gazetted	All other posts at lower level	Class IV

## STATE PUBLIC SERVICE COMMISSION

Every constituent State of the Indian Union has a State Public Service Commission, although the Constitution has a provision for a joint commission, serving the needs of two or more States. The Constitution also provides that the Union Public Service Commission (UPSC) may, if requested to do so by the Governor of a State, with the approval of the President, agree to serve all or any of the needs of the State. The UPSC agreed to the requests made by the Governors of Manipur, Tripura and Meghalaya, after their emergence as full-fledged States, to function as the PSC for those States for a period of six months. Although there is no constitutional relationship between the UPSC and SPSCs yet because of (i) the peculiar characteristics of the all-India services, (ii) the provisions for promotion from the State Service to the Central Service and the all-India Service, and (iii) the necessity of holding UPSC Examinations at various centres in the States, contacts between the UPSC and the SPSCs do take place.

The Chairman and members of the Commission are appointed by the Governor, provided that one half of the members are persons who have held office for at least 10 years under the Government. A member of the Commission holds office for a term of 6 years, till he attains the age of 60 years (now raised to 62) whichever is earlier. The Governor also determines the number of members, their conditions of service and he makes provision with respect to its staff, audit and conditions of service. Conditions of service of a member cannot be varied to his disadvantage during his term of office. On ceasing to hold office, the Chairman of the Commission is ineligible for any government employment except that of Chairmanship or membership of the Union or any other State Commission. A member of a State Commission is similarly debarred except for appointment as Chairman or member of the Union or other State Commission.<sup>1</sup>

## RECRUITMENT

Recruitment rules are shown to the PSC before being finalised on the basis of their comments. Once the rules are notified, they have to be followed. The Personnel Department has to ensure by constant reviews, that recruitment rules have been framed by all departments/appointing authorities. The State PSC is to be consulted on all matters relating to recruitment, disciplinary and connected matters affecting the civil servants. The Government of India has broadly kept 15 per cent posts reserved for scheduled castes in direct recruitment through open competition and 7½ per cent for scheduled tribes, and similarly for promotions. The State Governments have made suitable provisions in this respect, the percentage of reservations

<sup>1</sup> For Functions of the Commission, see UPSC in Chapter 13.

in a State depending on the proportion of population of scheduled castes and tribes to the entire population of the State. It is for the Personnel Department to bring to the notice of the Chief Secretary/Chief Minister if large irregularities are committed in any department/attached office, by not adhering to the prescribed criteria.

#### CONTROL AND DISCIPLINE

There are two types of control over State services : (i) control of legality, and (ii) control of policy and expediency. The former is required to ensure that actions of public authorities conform to the law of the land; the latter is essential to ensure that public authorities act in accordance with the declared policy of the Government or the legislature. The actions of civil servants in regard to financial matters are controlled at various stages by the legislature and its committees. Restrictions on acceptance of gifts or engaging themselves in private trade or employment have also been imposed. In addition to the written restrictions, the civil servants have also to observe an unwritten code of conduct in their official as well as private life. The punishments may be classified into two categories—major and minor. The former includes reduction to a lower service, grade or post or to a lower time-scale, compulsory retirement, removal from service and dismissal. Minor punishments include censoring, withdrawal of increment, recovery from pay of the whole or part of any pecuniary loss caused to the Government by negligence or breach of the orders.<sup>1</sup>

#### TWO SUGGESTIONS

According to P. K. J. Menon, there is probably no State where any attempt is being made for career management. In a State there are many officers who have the potential to get into the IAS through the promotion quota; outstanding officers of the other State services can also get into the IAS through the 15 per cent quota kept for them out of the 25 per cent quota kept for the State Civil Service. It would be good that the personnel Department prepares a list of all such officers who have a chance of being considered for selection by the Committee and groom them for entry into the IAS. The list should be prepared by the Secretary of the Department with the help of a committee of senior officers of the various cadres. Career planning for officers of non-State civil services should be arranged by their respective Heads of Departments.

The second suggestion is about the proper staffing of public sector undertakings, which have been set up in large numbers in most of the States. They should be properly staffed. Apart from chairmen and managing directors they require a large number of company secretaries, chartered accountants, managers, technical

<sup>1</sup> An account of disciplinary proceedings against a Civil Servant under article 311 (original and as amended by 42 Amendment) is given in Chapter 14.

officers and staff. The Government should select specialised and professional managers to run these rather than entrust these to the bureaucrats. The Personnel Department can also function in this sphere with imagination. A small cell should be set up in the Department to look after the recruitment and supply of personnel of various categories to the Public Sector.<sup>1</sup>

#### DEPARTMENT OF APPOINTMENTS IN U. P.

In the end, we give, in very brief, the organisation of the Appointments Department in U. P. The work of the Department has continued to increase; in January 1948 it was divided into Appointment (A) and Appointment (B) Departments, the former dealing with matters relating to staff, their appointment and posting and the latter with policies and rules concerning services and also the constitution of an advisory bureau on service questions. Appointment (A) Department was further bifurcated with the creation of new Appointment (C) Department in August 1953, dividing amongst themselves the subjects dealt with in the former. The portfolio of the Department is generally held by the Chief Minister, who is also Minister for General Administration. The Chief Secretary is the administrative head and he is assisted by a Secretary, as Under or Assistant Secretary, and an officer on special duty.

<sup>1</sup> P. K. J. Menon, *Some Aspects of Personnel Administration in States*, *I. J. P. A.*, July-September 1976, 356-58.

## CHAPTER X

# DISTRICT ADMINISTRATION

## I. EVOLUTION AND IMPORTANCE

### THE EVOLUTION

District administration is one of the most important characteristics of the Indian administrative system and has been one of its oldest institutions. During the colonial regime, it was rigorously built up to bring the totality of government closer to the people. It was a hierarchical sub-system of the state administration performing specific tasks assigned to it. So long as revenue, law and order were the dominant considerations, the District Collector was accepted as the pre-eminent officer in the district administration. For the people, he was the government; and around him revolved the entire administration of the area. From the British point of view, the maintenance of position of the District Officer was absolutely essential to the maintenance of the British rule in India.<sup>1</sup>

District administration as we know it today is a British creation. It dates back to the year 1772, when the East India Company had assumed diwani functions. It had appointed collectors to superintend the revenue collections and to preside in the courts. Gradually, district collector's authority and power increased and before long he became the pivot of the district administration, representing the provincial government in its totality. In the initial days of the East India Company, the district was an area assigned to its principal representative who was the trading agent and carried on commercial business. As the Company's sway extended and it assumed more of governing functions in addition to trading interests, the principal representative became the collector of land revenue. Since the army at the disposal of the Company could not be present everywhere and law and order had to be maintained at any cost, the Collector of the district also became the official responsible for maintenance of law and order.

During the first half of the nineteenth century the purposes of district administration in rural India were basically to keep peace, collect revenue and administer justice. By mid-century, this position

<sup>1</sup> Ishwar Dayal et al, *District Administration: A Survey for Reorganisation*, 1.

began to change. In 1854, departments of public instruction were established in each province to promote elementary education in the vernacular and higher education in English; embryo departments were started. During the second half of the century, institutions of local self-government were also established; and their importance grew gradually but steadily. Thus, two important elements challenging the system appeared : First, expansion of the activities of the functional departments and development of their vertical linkages upto the Central level. Second, the establishment of the local self-governing institutions. These changes naturally upset the homogeneity of district administration.

‘What was a closely knit group under a long established leader became diversified and weakened the district-Collector’s traditional links with his team. From an ‘integrated’ stage, the administration passed into a ‘differentiated’ stage. The third phase in the process of evolution was that of establishing the presence of the government in the district. The Collector levied and collected land revenue and other taxes. As District Magistrate he maintained law and order and administered justice. To assist him there was a police official, the Superintendent of Police.’<sup>1</sup> Before the end of the century, the district collector had become the executive chief and administrator of the area under his jurisdiction; and as such he was supreme over everyone and everything except the courts. He was respected, feared and trusted by the people; in common parlance, he was the *mai-baap* (mother and father) of the people. Even in 1930, after a decade of dyarchy in operation, the Indian Statutory Commission said that the district collector was in the eyes of most of its inhabitants ‘the Government’.

‘Like the British before them, the new Government of India in 1947 found it necessary to fall in for the moment with the system of district administration already in existence; and as the British developed and refined the system they found, so there is evidence that new developments and refinements in district administration are currently taking place in order to satisfy new needs. This gradual evolution has resulted in the present system of district administration.

‘State Governments in India create districts for administrative convenience. Districts, therefore, have no independent existence of their own. Their boundaries are artificial and accordingly can be, and sometimes are, altered. District administration, then, is the total action of government in an area specified as a district by a state government. The broad purposes of district administration are to maintain law and order, collect revenue and attend to the positive welfare of the resident population.’<sup>2</sup>

<sup>1</sup> *Ibid.*, 2-7.

<sup>2</sup> D. C. Potter, *Government in Rural India*, 7-8.

'Every inch of soil in India forms part of a 'District' and the District Collector or Deputy Commissioner is in the eyes of most of its inhabitants the Government. The activities of the district administration cover a wide range and touch the lives of millions of people at many points. Its efficiency and integrity are therefore of vital importance. The community development movement has introduced radical change in the fundamental aims of the district administration. The district administration is being remodelled in all States to enable it to carry out these responsibilities. In the new order of things, district officers, will have an even more vital role to play than in the past.'<sup>1</sup>

After the integration of the former princely states with the Indian Union the units of local administration have tended to be formed or grouped into districts, of much the same sort, size and pattern as those which existed in British India. The movement for decentralisation and the Five-Year Plans have further emphasised the role of district administration, with the result that the work of the Collector and other district officials has assumed great importance. The First Five-Year Plan gives an indication of the views of the Planning Commission on the subject in these words : 'In brief, from now on the primary emphasis in district administration has to be on the implementation of development programme in co-operation with the active support of the people... the reorganisation of district administration has to provide for : (a) strengthening and improving the machinery of general administration; (b) integration of activities of various development departments in the district and the provision of a common extension organisation; (c) linking up in relation to all development work, of local self-governing institutions with the administrative agencies of the State Government; and (d) regional co-ordination and supervision of district development programme.'

It may be defined 'as the total function of Government in the district'; and it may be 'annotated by saying that the form and contents of the district administration constitute a convenient method of performing the functions of Government in a district.'<sup>2</sup> There are several types of districts. By far the largest number are of the type one would call rural districts. But there are districts where the local administration has to concentrate more on urban areas and on urban problems, for example, the district of Delhi. Some districts, which are heavily industrialised, may be called industrial districts, and there are many of this type in West Bengal and Bihar. Then there are backward districts, where the local people have not had the same opportunities as the more developed ones. Finally, there are the hill districts as in Uttar Pradesh, which are backward but at the same time have peculiar problems of their own.

<sup>1</sup> S. S. Khera, *District Administration*, vii.

<sup>2</sup> *Ibid.*, 1.



The purposes of district administration, according to Potter are : (i) to maintain the district in a state of law and order ; (ii) to ensure that justice shall be done and that rule of law shall prevail; (iii) to assess and collect a number of taxes, e. g. land revenue, irrigation rates, agricultural income-tax, etc.; (iv) to ensure that the land, which is the major resource of the people, is properly administered; (v) to exercise various regulatory and control functions of Government; and (vi) to take immediate action in case of calamity or disaster and the like.<sup>1</sup> The main components, according to the same author include; (a) law and order, the administration of police, jails, and justice; (b) administration of land revenue; (c) development agencies, for example, the departments of irrigation, agriculture, education, planning and community development, etc.; (d) the local bodies; (e) non-official bodies, advisory committees, etc.

Its structure and functions have been described as : (a) It is here that after all government comes into vivid contact with the citizen. (b) Problems at this level are local. (c) District administration is field work as opposed to staff or secretariat duty. (d) At Collector's level policy ends, action begins. (e) State Government finds each district as its lowest level, and its direct agency terminates there leaving the head of the district as its last agent and 'man on the spot.' (f) Exceptions apart between department and department of the same State, the district represents the maximum of the area in which they must work together. In short, a 'district' is technically the best area for geographical and functional aggregation of units and branches of administration and bears a logical relation to total area, wealth and population.<sup>2</sup>

## II. THE COLLECTOR AND DISTRICT MAGISTRATE

Each district in India has an officer-in-charge, who represents the state government in that area in the capacity of Collector, District Magistrate and District Officer. He bears the official title of 'Collector' in Andhra Pradesh, Bihar, Gujarat, Kerala, Madhya Pradesh, Tamil Nadu, Maharashtra, Orissa and Rajasthan; of 'Deputy Commissioner' in Assam, Jammu and Kashmir, Karnataka and Punjab and of 'District Magistrate' in U. P. and West Bengal. But he is customarily referred to as the Collector.

In the prevailing pattern of the administrative system one may see a strong thread of continuity in the pivotal position of the Collector in the administration of the district, as the main agency responsible for the co-ordination of the different official agencies functioning in the district. The district administration provides the principal points of contact between the citizen and the processes of

<sup>1</sup> D. C. Potter, *op. cit.*, 15-20.

<sup>2</sup> K. N. V. Sastri, *op. cit.*, 13-14.

government, and is truly the cutting edge of the tool of public administration. In the development of this tool, and in any changes that may be brought about in order to suit it to the changes and to the changing purposes of administration it must maintain one essentially continuous feature, namely, a rigorous adherence to the principles of sound government and of sound administration. The governing parameters for both these are to be found in the Constitution.<sup>1</sup>

Before the introduction of responsible government, the Collector and District Magistrate was for most of the people king or ruler in his district. His power and prestige suffered when elected representatives of the people acquired control over the government of the province, later called the State, because the legislators and office-bearers of the party in power became rivals to his position and people found it easier to approach the ministers and high officials of the State. But the Collector and District Magistrate is gradually coming back into his own. As a consequence of planning, the number of district officers under the various departments of the State has increased considerably, and as the First Five Year Plan says, the Collector and District Magistrate has again become the principal head of the district and the sole representative of government. The functions of the Collector and District Magistrate may broadly be classified under three heads : (a) as Collector, (b) as District Magistrate, and (c) as the highest administrative officer in the district.

As Collector he is responsible for the collection of revenue and he hears appeals in revenue cases against the decisions of tahsildars and other subordinate collectors. As District Magistrate he is a first-class magistrate and head of all magistrates in the district. He hears and decides a number of criminal cases and supervises the work of all other magistrates under him. As the highest administrative officer of the district he has general powers of supervision and inspection of almost all types of activities being carried out under the various district officers. He sends all sorts of informations and reports to the State Government; he is responsible for the maintenance of law and order in the district; and he performs a variety of other functions. As a matter of fact the District Officer or Collector as the 'pivotal point of administration' has to deal with all executive authority.

The functions of the Collector and Deputy Commissioner may be summarised as : (1) Land Revenue—Collection of land revenue, maintenance of land records, land reforms, consolidation of holdings, etc. (2) Magisterial—Law and Order, action under preventive sections of the Criminal Procedure Code, etc. (3) Developmental—Prior to the introduction of the Panchayati Raj the Collector was closely connected with all development activities in the district including community development and activities in the district including

<sup>1</sup> S. S. Khera, 'District Administration', *I. J. P. A.*, Vol. IX, No. 3, 468.

Community Development and National Extension Service. Since the introduction of the Panchayati Raj, however, developmental activities have been handed over to the elected bodies, and the role of the Collector in this respect differs from State to State. (4) General Administration—Grant of arms licences, their renewal, suspension and cancellation; enforcement of special acts like the Cattle Disease Act, Forest Act, Requisition and Acquisition of immovable Property Act, Excise Act; welfare activities; supervision and inspection, elections, etc. (5) Emergency—Arrangements on the occasion of calamities, such as floods, famine, fire, earthquakes, internal and external aggressions, etc. (6) Miscellaneous—small savings campaigns, visits of VIPs, interviewing people, publicity and public relations, attending meetings and conferences, and any other work entrusted by the Government.

In addition to the above, he continues to perform other multifarious duties. If there is an assignment which does not relate to any particular department, or that department has no field staff of its own, it is quite often entrusted to the District Officer. This makes his work unwieldy. Since Independence, there has been enormous increase in his duties and functions, as he is expected to take over projects and assignments which are introduced by Government from time to time and relate to general welfare, planning, development, census, van mahotsava, wild life preservation, securing investments to small savings, raising of loans for the State Government and the recent addition of the sales of State lottery tickets.

The above classification and list of functions is just illustrative; it is perhaps not possible to compile a totally complete list of the duties, function and activities of the Collector. In addition to his formal duties, the Collector has many other functions to perform and varied activities to look after. For example, there are numerous institutions of which the Collector (in the U. P.) is the President, such as the District Cooperative Bank, Cooperative Housing Societies, and in some cases hospitals and schools. There are, on the average, about 40 Committees of which the Collector is President in the U. P. Then there are frequent visits by experts and the VIPs, and the District Officer is supposed to make all necessary arrangements for them. Many Collectors have expressed grave concern about the time they have to spend on attending on the VIPs. Actually, details about such time spent are not available, but the complaint is so common that one cannot ignore it.

In Tamil Nadu the king-pin of development activities in the district is the Collector. The State Government has decided to utilise the traditional authority and prestige of the Collector for furthering development programme. In fact, new functions which the collectors have to perform hereafter are the following : (i) Universalisation and

activisation of panchayats ; (ii) Framing and implementing a phased programme of establishing an altogether new type of local authority in the form of over 360 Panchayat Unions and the orderly transfer of power, staff and funds to them from District Boards; (iii) Formulating and implementing new rural development orders designed to establish new relationships between the Panchayat Union and the Revenue, Public works, Highways, Cooperation, Agriculture, Animal Husbandry, Industries, Health, Medical and Education Departments; and (iv) Developing their activities through District Development Councils.

With the establishment of the Kshetra Samitis and the Zila Parishads in U. P. under the Kshetra Samitis and Zila Parishad Adhiniyam, 1961, the responsibility for direction and administration of developmental programmes has been transferred from the officers of Government to the people's representatives. The Collector/Deputy Commissioner has, thus, no more any powers of day-to-day administration in the field of development. However, depending on the interest he takes, he can considerably influence the thinking and actions of these new bodies at least in the initial stages. Broadly speaking, the district officer will inspect, make suggestions, give guidance, resolve difficulties, stimulate discussion, watch the progress of the Plan Schemes and utilisation of funds, ensure that the government officers placed at the disposal of these democratic bodies lend them their full support and loyalty, and generally make himself useful to the new bodies.

The Balwant Rai Mehta Study Team on Community Development and National Extension Service, which in fact gave shape to the concept of Panchayati Raj envisaged the following role for the Collector : 'At the district level, the Collector or the Deputy Commissioner should be the captain of the team of officers of all development departments and should be made fully responsible for securing the necessary co-ordination and co-operation in the preparation and execution of the district plans for community development. Where he is not already empowered to make the annual assessment of the work of the departmental officers in regard to their co-operation with other departments; their speed in work, their dealings with the people and their reputation for integrity, he should be invested with such powers.'

'The position of the Collector is under strain. According to some observers symptoms of a general weakening of the district administration have appeared. Functional specialization in the wake of new planned programmes have naturally increased the burden of work. On the other hand, the emergence of the general governmental authorities at the local level has made breaches in what was traditionally an impregnable authority of the District Officer. A simple 'unity of command' no longer obtains. Apart from the

vertical commands of the technical hierarchy, there are now the cross-commands of the elected representatives. The local pressure groups have grown in strength. The easy accessibility to the policy-maker at the State headquarters has eroded the finality of the decision of the officer on the spot. It is feared by many that some times even in small matters the Collector has no say. For redressal of grievances, genuine or imaginary, direct approach to the State Government through local political leaders has become easy. Thus while the responsibilities have grown, the prestige of the District Collector has declined, and function without power has become the privilege of the District Collector.<sup>1</sup>

However, the Collector (1) will continue to be responsible for law and order in the district; (2) will retain the powers which he exercises in respect of local bodies to meet any emergent situations; (3) will continue to be the head of the district's revenue administration; (4) as Government's representative at the district level, will function as its 'eyes and ears' and should be regarded as such by the people; and (5) will be in a position to furnish independent reports on any matter concerning local bodies and will also execute the directions of the Government or Commissioner issued under their controlling powers.

### III. ADMINISTRATIVE SET-UP OF THE DISTRICT

In U. P. the Collector is assisted by a number of Deputy Collectors belonging to the U. P. Civil Service (Executive Branch), who function as Magistrate and Assistant Collector, first class. They may also either hold the charge of sub-divisions or work as Additional District Magistrate (ADM) in bigger districts, when they assist the Collector generally in all his functions and also supervise the work of other magistrates. In some districts, the Collector is also assisted by a few junior officers of the Indian Administrative Service who are known in the districts as joint magistrates. They work in the district in the same way as other deputy collectors. All these officers help the Collector in the different branches of administration, such as land records, collection of revenue and government dues etc., in addition to performing their own functions as sub-divisional officers (SDOs.) and magistrates. The District Magistrate is also ex-officio District Election Officer and one of the deputy collectors is designated as Deputy District Election Officer. There is also a wholetime Treasury Officer, who is in-charge of the district treasury and supervises the work of tahsil sub-treasuries. A comparatively new and important duty of the Collector since the middle of this century has been the direction in planning the development activities in the

<sup>1</sup> P. R. Dubhashi, 'Leadership Role of the Collector,' *I.J.P.A.*, Vol. XI, No. 3, 620.

district. The District Planning Officer, who looks after these activities and who is in many districts designated as Additional District Magistrate (Planning), works under the Collector's control.

The seniormost officers-in-charge of the district police is known as Senior Superintendent of Police and is a member of the IPS. Although the administration of the police in the district is vested in the District Superintendent of Police (DSP) and such Assistant DSPs as the State Government considers necessary yet this is subject to the general control and direction of the District Magistrate. Thus the DSP is subject to a dual control—general functional control (general control and direction) of the District Magistrate, and all administrative, technical, financial, professional and organisational control of the IGP and his deputies. The DM is the chief officer charged with the executive administration of a district and exercises the powers of a magistrate. His general control extends to the spheres of employment of additional police officers at the cost of individuals, regulation of private assemblies and processions and licensing of the same, maintenance of order on public roads, by the police, inspecting of the general diary of the police station, etc. In exercising his powers of general control, the DM is expected to avoid doing anything which may tend to weaken the influence and authority of the DSP. For prevention and detection of crime and preservation of public peace and order, the DSP has to keep in close and constant touch with the DM and to keep him fully and promptly informed about all important matters.<sup>1</sup>

Technical and other departments of the State Government post field representatives throughout the State. Their jurisdiction usually coincides with district boundaries, although there are exceptions e. g. certain officers of the Irrigation Department and the Forest Department. The following is a list of important district level officers :

Principal, Medical and Health Officer (Chief Medical Officer in U. P.)

Executive Engineer, Public Works Department (Buildings & Roads)

Executive Engineer, Public Works Department (Irrigation)

Deputy Director of Ayurvedic

District Agriculture Officer

District Industries Officer

District Animal Husbandry Officer

Labour Officer

Social Welfare Officer

Inspector of Schools

Assistant Registrar Cooperative Societies

Public Relations Officer

<sup>1</sup> G. C. Singhvi, 'District Magistrate and District Police,' *I. J. P. A.*, October-December 1973, 496-98.

Assistant Mining Engineer  
 Assistant Commissioner, Excise and Taxation Department  
 District Employment Officer.

Some of the important minor Departments under the district collector are : Rationing; Civil Supplies Department; District Soldiers, Sailors and Airmen's Board; Court of Wards; Excise; Treasury; Refugee Relief and Rehabilitation; and Government publicity and the Press Act. Among the major departments, which have their staff at different levels, are : Department of Medicine and the Department of Public Health (both of these have been recently combined in U. P.), Department of Education, Agriculture, Cooperative Societies, Public Works, Forests, Local Self-Government. While in the case of major departments his association is minimum, in the case of minor departments, his association is complete. The minor departments deal with important public activities, but cannot discharge their duties properly, because they do not have adequate independent staffs of their own to reach down to the villages. It is only because of their direct association with the Collector that they function effectively even with less staff and less powers. 'They draw largely on Collector's staff, his powers and his influence; and benefit by his guidance.'<sup>1</sup>

#### DISTRICT ORGANISATION AT LOWER LEVELS

Most districts in India are divided into two or more sub-divisions, each of which is the charge of an assistant to the collector called a sub-divisional officer (Assistant Collector, sub-Collector). The sub-division is the principal unit of land revenue administration between the district and the village in Assam, Bihar, Orissa and West Bengal. Each sub-division is divided into two or more administrative areas called tahsils in Andhra Pradesh, Jammu and Kashmir, Punjab, Rajasthan and Uttar Pradesh. These are called talukas in Gujarat, Kerala, Madhya Pradesh, Tamil Nadu, Maharashtra and Karnataka. Each tahsil/taluka is in charge of a tehsildar (Mamlatdar). Tahsils (taluks) are usually divided, for administrative convenience, into sub-tahsils (sub-taluks, firkas), and these are divided further into revenue circles.

Each tahsil usually comprises between 200–600 villages. In inhabited villages, several village officers, such as accountants, watchmen and others, are posted or recognized. The size of village communities varies significantly from state to state; on average, approximately 68 per cent of the total rural population lives in very small villages (less than 500 persons), 19 per cent, in small villages (between 500 and 1,000 persons), 9 per cent, in medium-sized villages (between 2,000 persons), 3 per cent, in large villages (between 2,000

<sup>1</sup> See J. D. Shukla, *State and District Administration*, 142–43, and for details of departments relevant chapters.

and 5,000 persons) and 1 per cent, in every large village (over 5,000) persons.<sup>1</sup>

The villages are the primary source for agriculture and land statistics and form the basis for policy decisions on these matters. In addition, the patwari (lekhpal in U. P.) reports on matters relating to police work, agriculture, irrigation and public health. He also acts as census taker every ten years, attends panchayat meetings each month and identifies voters at local, state and national elections. He is perhaps alone in being able to perform this function, which is essential to India's democracy. The Patwari is the representative of the government in his charge of one or several villages. His salary is paid by the State government. He is usually called 'village accountant,' but this appellation is inadequate for he is much more than this. His local knowledge is so extensive that there is little in the way of information about the village and its occupants which he does not know. His primary function is to keep up-to-date the land records; e. g. a map of the village together with an index showing various fields and their numbers, records of rights of tenants, register of proprietary rights, register of collections. These records are initially prepared at the time of settlement.

The sub-divisions may be classified into two broad types 'office' type and 'touring' type. In the former, the SDO maintains his office just as a collector or a tahsildar does; and the head-quarters of the subdivision is located within the sub-division itself. Bengal, Bihar, Rajasthan, Andhra Pradesh have this type of sub-divisions. In the other type of sub-division, he does not maintain an office; as a touring officer he gathers information (transmitting it to the district magistrate) contacts people and supervises subordinate officials.

#### LOWER LEVEL ORGANISATION IN U. P.

A district is divided for purposes of realisation and collection of land revenue into a number of tahsils. The district is also divided into a number of sub-divisions. Each sub-division, usually corresponds to a tahsil, but there are sub-divisions which cover part of the city portion of a tahsil for criminal and revenue works. In some districts there are two full sub-divisions for a single tahsil and there are also sub-divisions which cover two tahsils. There is a total of about 235 tahsils in the State against which there are about 210 full sub-divisions and 20 city sub-divisions. The chief officer of the sub-division is the sub-divisional officer (SDO), who is both sub-divisional magistrate of the first class as also assistant collector, first class, except that the officer-in-charge of the city sub-division exercises only the magisterial powers. These officers had their headquarters at the district towns, but now they are being shifted to tahsil head-quarters.

<sup>1</sup> D. C. Potter, *op. cit.*, 19.



The duties and functions of the sub-divisional officer are similar to those of the Collector, though of a lesser degree and are confined to the sub-division. Apart from his law and order duties and the case work which generally consists of a 'mixed bag of revenue and criminal cases,' he shares with the collector, but subject to the latter's control, responsibility for the regulatory functions of maintenance of maps and records of his sub-division and assessment and collection of land revenue. Appointment and transfer of lekhpals are made by him and the responsibility for their disciplined working rests on him. Inspection of the office of Registrar Kanoongo in the Tahsil is an annual feature in which special attention is paid to mutations in land records, timely and correct preparation of statistical returns regarding crop and area, holdings, land revenue and rentals, crop failures and remissions of land revenue or rent, etc.

The local officer in immediate charge of a tahsil is the tahsildar, who is an officer with gazetted status and is subordinate to the sub-divisional officer. Formally, he had only second class magisterial powers, but he is now a magistrate of first class, in addition to being an assistant collector first class, and presides at his tahsil office and court. He is assisted in his work by a few deputies, called naib tahsildars, who are non-gazetted officers, but besides being assistant collectors, second class since long, they have now the powers of magistrate second class as well. As in the case of the District Officer and the sub-divisional officer, a tahsildar also has a large number of duties, chief of which are as follows : (1) supervision over the timely collection of land revenue and other dues; (2) supervision over the maintenance of land records and agriculture statistics; (3) maintenance of law and order and to try cases both revenue and criminal; (4) general assistance to the District Officer and the sub-divisional officer in the exercise of their functions; and (5) assisting generally all the departments of the State and the Central governments whenever required to do so.

Each tahsil has a sub-treasury with the tahsildar as sub-treasury officer. In his absence, one of the naib-tahsildars holds charge of the sub-treasury. Till 6 February 1968 he was magistrate second class. He still exercises second class magisterial powers for his normal criminal case work. First class powers are exercisable by him only when required for law and order purposes, naib tahsildars were without any magisterial power till 6 February 1968. Likewise, they now exercise the magisterial powers only for law and order purposes. Though a tahsildar is mainly a revenue officer, yet he is called upon to perform, as a deputy to his collector, a large number of duties which far outweigh in volume his revenue work. In big towns he has to meet and look after all important visitors—official and non-official ; and he has to submit a large number of reports on every conceivable subject, he has to hear the grievances of and generally keep in touch with the

people in his tahsil. Floods and other calamities, big cases of land acquisition, watch on the maintenance of stock of supplies, etc. are some other matters which occasionally cast a heavy burden on him. He is also required to help in development work.

The registrar kanoongo, who remains at the tahsil office, is entrusted with supervision and compilation of land records and all the work connected with these. His work is periodically checked by the sadar kanoongo and inspected by the naib tahsildar, tahsildar and sub-divisional officer. His duties mainly are the maintenance of accounts of lekhpals' pay and allowance, correction of records in mutation cases, testing of lekhpals' records, compilation of crop statistics, maintenance of lists of villages, list of lands and groves exempted from the payment of land revenue, maintenance of register of property of the States Government as also of property under management of the States Government, register of calamities, inventory of survey instruments, villages maps, etc. as well as maintenance of a list of all pensioners residing in the tahsil. The registrar kanoongo also compiles area crop statistics based on the land records.

At infra level of the tahsil are parganas and the field officials of the revenue department, working there are supervisor kanoongos and the lekhpals, (before 7 March 1953 they were known as patwaris). A supervisor kanoongo is in charge of one or more parganas and his duties are confined mostly to supervision of the land records work of 20 to 30 lekhpals in his circle and testing their records and statistics, supervision over village maps, detection of agricultural deterioration, helping in local enquiries, attestation of documents under tenancy laws and disposal of undisputed cases of succession.

The Lekhpal is the last link in the above chain. The initial and spade work in respect of all the items enumerated in the earlier description is done by him. His residence in his circle is necessary unless he is exempted, for he has to keep a watch on various types of happenings and activities in the villages under his charge. He is secretary of the land management committees of his halka and in this capacity he works under the directions of the chairman in matters relating to such committees. The lekhpal has also to work for various other departments. He has to help the irrigation department at the time of measurement in villages by canal amin for irrigation rates and charges and in the finalization of osrabandi, assist the public health department in the preventive and curative measures whenever there is any epidemic in his halka. He has to report to the representative of animal husbandry department whenever there is any outbreak of cattle or horse diseases, to report to a magistrate or to an officer of the excise department or to the police the moment he notices that any excisable article not licensed under the Excise Act is manufactured or any unlawful cultivation of any such drug is

carried out.<sup>1</sup>

#### IV. CRITICISM AND SUGGESTIONS

First of all, we take up the findings and suggestions of Ishwar Dayal, Kuldeep Mathur and Mohit Bhattacharya made by them for the reorganisation of the district administration after a careful survey. A brief summary of their views is as follows : Organisationally the first dysfunctionality of the over-lap of inter-dependent tasks being split between several departments where no one has control over the whole, a clear-cut accountability system is difficult to develop. At the same time, from the point of view of the villagers the artificiality of the departmental structure becomes clear as one begins to examine the number of functionaries they have to contact in order to get things done. Quite a number of departments have their functionaries posted at the village level to provide specific departmental services to the villager. But these functionaries are not even located at a single point with the result that the villager has to go in search of a particular individual to get his problem solved.

The second dysfunctionality is that the villager has to contact many points to get his permits of supplies for his primary activity—agriculture. In this kind of a situation the administration's concern should be to service the villager for his total requirements, each sub-section being concerned with its own portion of the work. The third dysfunctionality is that a co-ordinated report of the total activities of the district is not available for the district collector to take corrective measures towards achieving prescribed goals. The reporting system is designed more for record and less for managerial control purposes. The revenue organisation under the Collector has, by contrast, a much more pyramidal structure.

Considerable diversity is also noticeable, in respect of span of control, as well as among the district departments. Measured in terms of the ratio of officers to subordinate staff, the span of control of seven departments has been presented in the following table :

RATIO BETWEEN OFFICERS AND SUBORDINATE STAFF  
(Class III and IV)

Department	Officers	Subordinate Staff	Ratio between (2) and (3)
1. Agriculture	14	585	1.38
2. Revenue (Collectorate)	53	697	1.14
3. Irrigation (Division)	6	399	1.66
4. Irrigation (Canal)	5	317	1.63
5. Irrigation (Rigs division)	3	38	1.13
6. District Employment Exchange	4	30	1.07
7. District Inspector of Schools	12	22	1.02

<sup>1</sup> M. Zaheer and Jagdeo Gupta, *Organisation of the Government of U.P.*, 730-37.

The organisation design at district level assumes that different patterns of organization are required for different tasks. Having accepted this thesis, the fourth dysfunctionality is that a tall hierarchy is created in tasks that require flat organisation, such as agriculture and irrigation, compared to revenue administration. In district organisation, special dispersion is one form of vertical differentiation. Broadly speaking, it has moved along two lines. Many of the departments have created their independent vertical spatial units ranging from a supra-district organisation to a village level outpost. Between the district and the village, there might be more than one unit descending downward to reach out to the villages.

The administrative units of revenue and irrigation departments are dispersed over the district in an ascending order from the village upward. Each unit has special tasks to perform and the vertical shape signifies the distribution of supervisory powers at successive levels. The revenue organization rises up from the lowest level like a monolith. But the canals organization shows a split below the division on account of task differentiation. The sub-division and section are basically engineering works units, whereas the ziladar, amanat and chowki are essentially concerned with irrigation, revenue and canal water management. A second kind of spatial dispersion has taken place because of the emergence of the development block as a unit of administration for a variety of purposes. The shift from the district to the block is not along a single departmental line. Like the district, the block stands for a macro unit in space embracing a number of departmental organizations intergrated through the leadership of the block development officer.

The organisation of the collectorate should be able to facilitate the achievement of at least the following : (1) Growth and development of the district and its people by the combined efforts of all departments. (2) Cooperation and smooth team-work within the organization where tasks are interdependent. (3) Capability of the administration to take timely action if results are poorer than anticipated, or less than what had been planned or anticipated. (4) Quick response on the part of the administration to the requirements and needs of the citizen, genuine response and responsibility towards the community, and fulfilment of the role for which the administration exists. (5) Full satisfaction for the administrator from being able to fulfil a purpose through achievement and not the frustrations that arise from the results of insufficient growth.

The present arrangement gives strong controlling power to the directorates, especially because the district collector has no authority to remove or transfer departmental personnel without clearance from the State level authorities. The civil service structure of the all-India services, state services and technical services with cadre control for each being vested with a different ministry further

complicates the Collector's supervisory role over the departments in the collectorate. The leadership role of the District collector is rendered very difficult by the combined effects of the organization of work, the budgetary allocation and responsibility for expenditure, and the personnel administration. Besides these aspects, the influence of the elected representatives and the Panchayati Raj creates an extremely involved decision-making apparatus in district administration.

In this study they have, however, explored an alternative model. While accepting the proposition that public offices should be open systems and be subject to the influence of specialists and public alike, the organization should attempt to achieve the following : (1) Concern for results at district level. The management of tasks should be so arranged that measures can be developed to assess results. (2) The responsibility and authority of various functionaries are so determined that expectations may be fulfilled. (3) Conditions are created so that inter-departmental co-operation, as against competition, is easily possible. (4) The needed degree of flexibility within administrative departments is provided so that its organization is appropriate, to the largest extent possible, for the task it must perform. (5) Roles are defined in such a way that they support the achievement of the basic purpose rather than hinder it. The roles of the specialist, the generalist and the elected representative respectively, should be so arranged that they provide their respective expertise in areas where each can contribute his best, instead of being pitched into battle with one another.

The involvement of the citizen and of the elected representative in administration should be built into the administrative system. The representation should be available both at the collective and the individual levels. Organizationally the roles and tasks for the representative and the citizen and the nature of participation of each should be clearly defined. At present the administrator and the representative share feelings of hostility towards each other and each believes that failures are due to the incompetence or interference of the other. Some of the other reasons for differences between the administrator and the representative seem to be : (1) The difference in the social background arouses the representative's feelings for becoming like the civil servant, and the civil servant resents the fact that the system requires him to take orders from someone whom he regards as his social inferior. (2) The ambiguity between the roles and the responsibilities of the administrator and the representatives cause many misunderstandings between them. (3) The perspectives of the administrator differ from that of the representative and each perceives and defines the problems in vastly different ways. The involvement of the representative and the citizen must prevail in the following three areas : (i) Decision-making on policy matters,

(ii) Citizen grievances, and (iii) Citizen consultation.

The Zila Parishad is responsible for policy decisions on community matters within the broad framework of the national policy. Its role is significant in three ways. First, it represents the people and their aspirations. In its representative role it must systematically maintain contact with people to keep itself alive to their aspirations in the district and to seek public support for public programmes. Second, the Zila Parishad should be responsible for articulating the content of the economic, social and political growth of the district and its people and lay down plan priorities, etc. Third, it must perform a linking role between the political and the administrative systems at the district level. This role includes the gate-keeping function as well as giving protection to the administrator against interference from forces that contribute to the instability of the work organization.

Citizen consultation in community affairs is best achieved through committees appointed for specific issues and citizen aspirations need to be formalized in a designated body for the purpose. The Zila Parishad in its representative role should be responsible for tasks that require a close knowledge of citizen aspirations, and for whatever other tasks they can perform better in their representative role, such as review of performance, resource allocation and resource generation, while the task of administering is better performed by the machinery of the government, *i. e.* the district collectorate.

The proposed reorganization, using the socio-technical systems approach, would be able to resolve some of the major difficulties with which the present organization is vexed. Among the more significant benefits that the proposed reorganization would introduce are the following : (1) Sharing of common goals as against the adherence to sub-goals by the concerned departments. (2) Reduction of inter-departmental differences and creation of conditions for working as a team in areas where team work is required. (3) Greater concern for achieving the goals of the district administration as against separate goals each individual activity set for itself. (4) Capability for seeking out and planning the goals of district administration, and developing an effective control system for taking timely action to ensure the achievement of the total goal. (5) Autonomy in the administration of the district at the local level resulting in better co-ordination between the representative and the administrative systems.

As discussed earlier, a common goal shared by all departments super-ordinate goal would create an essential condition for operation among departments, given the leadership. A clearer articulation of super-ordinate goals would help the departments to shift their emphasis from department to totality. Articulation of

goals would, in turn, help the administration to plan and develop an effective management control system for monitoring the activities in the district. The indices of achievement in all segments, other than production, are poorly developed and the effectiveness of the controls would depend on how well they are able to identify the social indicators of growth in public administration.<sup>1</sup>

#### OTHER CRITICISMS AND SUGGESTIONS

The district collector is a generalist; normally other officers are technical personnel, and belong to specialised State services created on departmental lines. They, thus, represent two different behaviours. The relationship between the generalist collector and these technical functionaries has always been a thorny problem of district administration; the technical personnel being responsible to their respective heads of departments. 'Of crucial importance, consequently, is the need for co-ordination and integration of activities of these different functionaries. Increase in the tempo of development activities has caused an increase in the number of district officers and, also, their former commitments in terms of departmental programmes.'

For the above purpose, Maharashtra and Gujarat have each created a new parallel district authority, called chief executive officer in Maharashtra and District Development Officer in Gujarat. The Balwant Rai Mehta Team for the Study of Community Projects and National Extension Service recommended: 'At the district level the Collector or the Deputy Commissioner should be the captain of the team of officers of all development departments and should be made fully responsible for securing the necessary co-ordination and co-operation in the preparation and execution of the district plans for community development.' But the district collector has not been able to emerge as an effective co-ordinator. A working group set up by the Ministry of Food and Agriculture in 1963, recommended: (1) The District Collector should be the Chairman of the Agricultural Production Committee of the Zila Parishad, (2) The District Agricultural Production Officer should assist the Collector in co-ordinating the efforts of all the departments concerned; and (3) the District Collector should be effectively involved in assessing the work of district level functionaries.<sup>2</sup>

'...Overburdening, under staffing, and lack of stringent administrative evaluation of performance are generally characteristic of the Collector's situation. The Collector is so broadly responsible and overburdened that one of his two primary functions has suffered seriously.... No one can hold him responsible for anything in particular and few facilities for checking his performance exist. He struggles

<sup>1</sup> Ishwar Dayal et al, *op. cit.*, 10-47.

<sup>2</sup> S. R. Maheshwari, *Indian Administration*, 416-19.

valiantly in an outmoded structural situation.<sup>1</sup> The Collector is thus, an overburdened official ; naturally some of his work remains neglected and some is attended to only superficially. Therefore, in the interest of efficiency, he should be provided relief by (i) reducing the size of the district, and (ii) relieving him of some of his work.

In the last decade, two patterns of district administration have emerged in India. One is the Maharashtra and Gujarat pattern whereby regulatory functions have completely been separated from development functions by an arrangement whereby : (i) All district level officers of development departments have been placed under the administrative control of Zila Parishad; (ii) an IAS Officer has been appointed as Chief Executive Officer of the Zila Parishad; and (iii) Administrative control of all officials of the Zila Parishad is exercised through him. The second pattern is the one that obtains in Tamilnadu, Rajasthan and other States. In these States, the Collector continues to look after both the regulatory functions and the developmental functions. Both the patterns have worked fairly satisfactorily though the pattern adopted by the States of Maharashtra and Gujarat has given greater opportunities to the elected representative and has also helped in better co-ordination in developmental activities.

It has, therefore, been suggested that at the district level, the administration should be divided under three heads—(1) Tax Collection; (2) Law and Order; and (3) Developmental. 'One officer should be incharge of tax collection of all departments. He should have full and detailed knowledge of different laws to enable him to stand the test of civil courts. The officer incharge of law and order should be assisted by a sociologist for study and research of the socio-economic problems and reactions of the people of the policies of the government to enable the government to take remedial measures in time. It is only then that the complex problems of law and order, such as students unrest, labour trouble, agrarian trouble etc. could be dealt with in an imaginative way. This authority should also deal with public relations work to keep the people informed of the plans and activities of the government and the government of the reactions of the people. As far as developmental administration is concerned, he suggests that this work should be transferred to Zila Parishad, which should be provided with a Chief Executive Officer to control and co-ordinate development departments at the district level.'<sup>2</sup>

#### A.R.C. RECOMMENDATIONS

In the end, we give below the main recommendations of the

<sup>1</sup> Paul H. Appleby, *Public Administration in India*, Report of a Survey, 21-22.

<sup>2</sup> B. Mehta, *Dynamics of State Administration*, 27-32,



### Administrative Reform Commission on District Administration :

(1) In the State where judicial work of the Collector has not yet been transferred to the judiciary, steps may be taken to get it so transferred. In those States in which only a partial transfer of judicial work has taken place, steps may be taken to make the transfer complete.

(2) The District Administration should be divided into two sectors—one concerned with 'regulatory' functions and the other with 'developmental' functions. The District Collector should be the head of the former and the Panchayati Raj Administration should have the responsibility for the latter. The District Collector and President of the Zila Parishad should meet at periodical intervals to resolve matters calling for coordination between the regulatory and developmental administration. This procedure should be given official recognition in the legislation dealing with Panchayati Raj.

(3) The Collector and District Magistrate at the head of the regulatory administration in the district should exercise general supervisory control over the police organization in the district. Except in emergency, he should not interfere with the internal working of the police administration. In the day-to-day work of the police organization and with regard to routine matters like postings and transfers, the District Superintendent of police should have full control. The Collector should annually record his views on the performance of the District Superintendent of Police after receipt from the officer concerned, in a note written by him on his performance during the period under review.

(4) It should not normally be necessary for the Collector or any other district officer to wait upon a visiting dignitary unless his presence is specifically required. The Collector and his officers should spend a prescribed minimum number of days on tour with night halts in the camp. The tour should be utilized, among other things, for the redress of public grievances on the spot wherever possible.

(5) There should be only two administrative units whose heads are invested with powers of decision-making in the district administration—the one in the tahsil talukas or a group of tahsils/talukas of a subdivision (in the States where there are no tahsils/talukas) and the other at the headquarters of the district. The intermediary levels, where they exist, may be abolished. Powers should be delegated to the maximum extent to the officer incharge of the sub-district administrative unit.

(6) When conditions are more propitious for considering the question of readjusting the boundaries of districts, the State Governments may appoint committees for the purpose of examining the size and boundaries of districts in the light of administrative requirements.

## CHAPTER XI

# GROWTH OF LOCAL-SELF GOVERNMENT, URBAN BODIES AND STATE CONTROL

### I. GROWTH OF LOCAL SELF-GOVERNMENT

It is true that local self-governing institutions are not new to India; because India has been well-known for its ancient village communities—the panchayats which flourished as autonomous bodies. The village panchayats survived into the modern period, since they were widely prevalent at the time of the British conquest. According to M. Elphinstone, 'These communities contained in miniature all the materials of a State within themselves.' Sir Charles Matcalfe wrote : 'The village communities are like republics, having nearly everything they can want within themselves.'<sup>1</sup> But it is equally true that modern local self-governing institutions of India are essentially a product of British rule. 'The local self-government in India in the sense of a representative organisation responsible to a body of electors, enjoying wide powers of administration and taxation and functioning both as school for training in responsibility and vital link in the chain of organisms that make up the government of the country is a British creation.'<sup>2</sup>

The first local body created by the British in India was a corporation for Madras. The Charter Act of 1793 empowered the Governor-General to appoint Justices of Peace for the Presidency towns. They were to look after the scavenging and repairing of streets etc. However, no attempts at establishing local bodies outside the Presidency towns were made until the middle of 19th century and even after that progress made in that direction was slow, though a series of enactments between 1840 and 1861 provided for the setting up of municipal institutions in other towns. It was in connection with the scheme of financial settlements with the provinces begun by Lord Mayo in 1870 that the importance of local self-government was for the first time emphasized. He said in his Resolution : 'Local interest, supervision and care are necessary to success in the management of funds devoted to education, medical charity, and local public works.'

<sup>1</sup> P. Mukerji, *Indian Constitutional Documents*, Vol. I, Introduction.

<sup>2</sup> Chhablani and Joshi, *Readings in Indian Constitution and Administration*, 394-97.

His government also passed a Resolution which aimed at encouraging the elective principle. The tax-payers were given the right of choosing representatives to the corporations. Consequently new Municipal Acts were passed in various provinces which increased the sphere of municipal bodies and introduced the system of election. In addition to the corporations in the Presidency towns, there had also been established Improvement Trusts and Port Trusts. But these Acts affected only the urban areas; thus rural areas were still ignored.

The next important step in the development of the local bodies was taken by the resolution of Lord Ripon's Government in 1882. It advocated the development of such bodies not primarily with a view to improvement in administration, but because it was 'desirable as an instrument of political and popular education. It would also relieve pressure on government departments and meet effectively the demand for increased establishment' by utilizing 'the rapidly growing intelligent class of public spirited man.' It also stated that 'previous attempts' were 'too often over-ridden and practically crushed by direct, though well-meant, official interference.' The Resolution then proceeded to lay down these general lines of advance: (i) It provided for the maintenance and extension of LSG in towns and cities. (ii) The urban boards were to be independent so far as it was possible. (iii) It laid down that 'in no case ought the official members to be more than one-third of the whole.' (iv) The G-G in Council recommended 'the adoption of the system of election as widely as the local circumstances may permit.' (v) The G-G in Council desired 'to see non-official persons acting wherever practical as chairmen of the Local Boards' both rural and urban. (vi) The Resolution made adequate provision for control over the Local Boards to be 'carried from without rather than from within.'

It was Lord Ripon who realised that the primary requisite was not organisational reform but infusion of fresh life. The control over the local bodies was to be exercised from without rather than from within. The most important innovation proposed by his government was the establishment of rural local bodies. Ripon's policy heralded a new era in the history of local self-government in India. His contributions were in the main two. In the first place, he established the decentralized system of finance on a uniform and extended basis. One of its objects was to secure the transfer from 'provincial' to 'local' heads such additional items of receipts and charges as might equalise local and municipal taxation and thereby remove inequality in their progress throughout the country. Secondly, he injected in his local self-government policy a political element to which he subordinated administrative considerations.

'By political and popular education' Ripon meant the education of the popularly elected members of local and municipal boards as well as of the electorate whom they claimed to represent. It lay in

the acquisition of skill and experience necessary for the management of their local affairs. Its nature was political because it involved the education of a political body—a popular representative agency of self-government. The elective system had existed even before Ripon. An important result of Ripon's emphasis on the extension of the elective principle as an instrument of political education was gradually to bring into relief the differences of caste and religious groups into which Indian society was divided, especially because the electoral principle which the Resolution of 18 May recommended included a variety of plans.<sup>1</sup>

After the issuing of the Resolution—in 1883–84 LSG Acts were passed in the various provinces to give effect to the policy contained therein. They led to the establishment of local bodies in rural area, increasing the number of elected members and extending the scope of their functions and powers. However, there was no uniformity in the case of different provinces. Moreover, the progress in local self-government during the period 1882–1905 had been most discouraging. The bureaucracy did not appreciate its value. The district officers, who were generally chairmen of the Rural Boards conducted everything in their own way. The benevolent despotism of the district officer paid little heed to the representation of non-officials; and no significant attempt was made to meet the aspirations of Indian politicians. The proportion of ex-officio and nominated members was very large. Further, the boards had very little financial resources at their disposal.

In his statement submitted to the Decentralisation Commission, G. K. Gokhale said : 'The time is gone by when the Collector could hope to exercise and with beneficial results a kind of paternal authority over the district. The spread of education, the influence of new ideas, the steadily growing power of the vernacular press make a return to the benevolent autocracy of the collector of old times impossible. The only remedy lies in carrying a substantial measure of decentralisation down to the villages and in building of local self-government from there.'<sup>2</sup> In 1911 there were 713 Municipalities, 197 District Boards and 517 Sub-divisional Boards. The population living in municipalities was about 7 per cent, the remaining 93 per cent being entirely rural. The powers and finances of the local bodies were very much limited. Decentralisation Commission appointed in 1907 presented its report in 1909. The third and the most important group of its recommendations related to the extension of local-self-government in India. It pointed out that the progress in the system of these bodies was disappointing and gave three reasons for this disappointing progress : (i) the smallness and inelasticity of local revenues; (ii) the slow development of interest in local affairs and

<sup>1</sup> B. B. Misra, *Administrative History of India*, 601–08.

<sup>2</sup> B. K. Thakore, *Indian Administration*, 334–35.

capacity to handle them ; and (iii) the officialisation and excessive control exercised by the Government over the local bodies.

It made a number of proposals to remove these defects. But the Government of India took a long time in arriving at decisions in regard to them. It passed a Resolution on the subject in 1915, which could not be implemented owing to the war as well as the talk of impending political reforms. The Secretary of State for India in his famous announcement on 20 August 1917 declared the policy of increasing association of Indians in every branch of administration and the gradual development of self-governing institution, etc. It was, therefore, agreed that as a first step as great an advance as possible should be made in the sphere of local self-government. The Government of India, therefore, revised proposals of 1915 and the revised proposals were embodied in a new Resolution passed in 1918. The aim which the Government put before itself was 'that local bodies should be as representative as possible, that their authority should be real and not nominal, and that they should not be subjected to unnecessary control but should learn by making mistakes.'

The Montford Report accepted the principle : 'There should be, as far as possible, complete popular control in local bodies and the largest possible independence for them of outside control.' The Reforms of 1919 transferred the local self-government department to ministerial control and the Provincial Legislative Councils passed laws relating to the composition and powers of local bodies. The U. P. District Boards Act of 1922 was drafted by the popular Ministers who believed whole-heartedly in the need of emancipating local authorities from official control. While the Municipalities Act of 1916 created municipal boards which were advisory and controlling bodies working through an executive, the district boards established under the 1922 Act were units of direct administration. The powers of Government over rural bodies' activities were even less than those enjoyed under 1916 Act. A notable feature of legislature during the period of Dyarchy was the wide-spread adoption of communal representation in local bodies. 'Although the years 1920-1937 produced so much political and communal activity in local board affairs this led to no radical change in the pattern of local government. The principal effect of the political repercussions of the 1920's and 1930's was to distract local authorities from the steady development of public services towards the exploitation of local activities for the ends of national politics, and frequently to accentuate ancient divisions of castes and religions.'<sup>1</sup>

By executive orders issued in September 1920 under the District Municipal Act III of 1901, the Government of Bombay, for instance, lowered the franchise, increased the number of Councillors, limited

<sup>1</sup> H. Tinker, *Local Self-Government in India, Pakistan and Burma*, 160-61.

the strength of nominated Councillors to one-fifth of the total, empowered the Councils to elect their own presidents, and arranged the distribution of wards in a manner which might secure the representation of minority communities. The Amending Act II of 1923, on the other hand, reserved special seats for the backward and depressed classes and made the offices of president and vice-president purely elective. It increased the powers of municipal councils and declared the salaried servants of Government ineligible for election. The Madras District Municipalities Act of 1920 left the Councils more or less unaffected, but it enfranchised women, empowered municipal councils to elect their own chairmen and to frame their own budgets, and reduced the external control of the Government to a minimum. The elective strength of these councils was raised to three-fourths in 1929, and the system of nomination abolished by the Madras Act of 1930. The Central Provinces Municipalities Act of 1922 raised the elective elements to a little more than three-fourths, three-fifths being elected by rate-payers and one-fifth co-opted by the elected and nominated members put together. The power of municipal councils was extended and their budgetary control considerably increased.

Thus, most of the legislation enacted to democratize municipal government was introduced by the first provincial Councils established under the reformed constitution, but conditions changed subsequently. The Swaraj Party, formed under the leadership of C.R. Das and Motilal Nehru, entered these Councils in 1923 with the declared intent of wrecking that constitution from within, when the non-cooperation movement had failed to do so from without. National politics also had a share in lowering the quality of local administration. In their attempt to make the local self-governing institutions subservient to the national movement Indian leaders were acting in the same way as the British had done, by creating local agencies for the discharge of central functions. Finally, they had to face financial handicaps. While the elected representative of rural boards were loath to impose new taxes or even to enforce strict payment of the existing ones, there was considerable increase in expenditure on the travelling allowances of the non-official members.

A growth in the civic consciousness, however, followed the introduction of the Reforms and the policy of de-officialization. It was an indication of hope for the future. As regards administrative efficiency and uprightness of conduct, however, there was a definite fall in the standards of both. Commenting on the working of the district boards in the United Provinces, for example, the Committee of the U. P. Legislative Council thus reported: 'Interference on the part of individual members with the postings and transfers of the staff led to administrative deterioration. The boards cannot as a whole be said to have fully exploited their own sources

of income. Little regard to economy has been paid by some Boards. It must be confessed that the keeping of accounts and observance of rules shared deterioration in common with many other aspects of the Boards' administration.'

'An important conclusion that emerges from this survey of local bodies is that these were the creation of Government. They did not grow out of the ancient village communities. The new local bodies created as an agency of Government for a variety of local purposes were founded on the rule of law, an entirely new basis of organization where corporateness was to be voluntary and not through any compulsion imposed by religion, caste or local usage. The Decentralisation Commission and the Bengal District Administration Committee recommended that local bodies be invested with extended functions. But all these were to be statutory functions, belonging to the State and exercisable by persons or institutions duly authorised in that behalf. The whole of the new trend of development in fact involved an extension of the official apparatus of Government to village.'<sup>1</sup>

Later on, the advent of provincial autonomy in 1937 had a far-reaching effect on the constitution and powers of local bodies in the various provinces. There was significant progress in the direction of democratisation, *i. e.*, nominations were reduced, franchise was extended and the control of government over local bodies was also relaxed. In general, large cities with a comparatively high level of income were able to provide at least a minimum standard of public services, whereas the resources of towns and rural boards were quite inadequate to maintain even the most elementary sorts of services.

Important reasons for the comparative lack of success of the local self-governing institutions were : (i) Failures of British and Indian leadership—except a few leading figures of Ripon and Gokhale—of local government did not bring forth a courageous response from either British officials or Indian leaders ; (ii) There was the great difficulty that no separate indigenous local government tradition existed (except for the village organisation) distinct from the centralised administration of the State, upon which nineteenth century official could build ; and (iii) Certain adverse factors such as poverty, political ferment, social flux and economic classes.

## II. TYPES AND ORGANISATION OF URBAN BODIES

Indian Census authorities have adopted a strict definition of what may be called 'urban'. Under this definition, fulfilment of the following criteria is necessary for a place to be designated as 'urban' : (a) places having urban local bodies such as a municipality, a muni-

<sup>1</sup> B. B. Misra, *op. cit.*, 612-35.

cipal corporation, a cantonment board or a notified town area ; (b) other places which have : (i) a minimum population of 5,000 ; (ii) at least 75 per cent of male working population is non-agricultural ; and (iii) a density of population of at least 400 per sq. km. (*i. e.* 1000 per sq. mile). Further the Indian census has adopted a six-fold classification of cities and towns on the basis of size of population, as shown in the following table :

Population Size	Classification
1,00,000 and above	Class I
50,000 to 99,999	Class II
20,000 to 49,999	Class III
10,000 to 19,999	Class IV
5,000 to 9,999	Class V
Less than 5,000	Class VI

The number of urban places has been steadily increasing over the census decades. But it is the bigger towns belonging to class I that account for the major proportion of the urban population. Whereas all the towns belonging to class II to VI together account for nearly 48 per cent of the urban population, the cities in class I alone contain the remaining 52 per cent. In some States of the Indian Union, the class I cities account for even higher percentage of the urban population. 'Of the five types of urban local government in India, viz. municipal corporation, municipality, notified area committee, town area committee and cantonment board, it is the municipal corporations and municipalities which can be termed as fully representative urban local bodies. Their importance in urban administration can be gauged from the fact that together they serve more than 93 per cent of the total population covered by all categories of urban local bodies. The quality and quantity of local services, these two types render, have a significant bearing on the health, happiness and economy of our urban areas and their vast 'influence areas'. As grass-root democracies, these municipal institutions form an integral component of our democratic system, and they are meant actively to reinforce the general tenor of the country's political liberalism.'

Although after Independence attempts have been made to introduce changes in the system of rural local government, urban local institutions have, by and large, been left undisturbed. In the urban sphere at least, the persistence of historical forms of local government testifies to the absence of any terminal thinking on the subject. In spite of their palpable imperfections, municipal institutions in the district towns had some semblance to the British type. But a number of big city municipalities were converted into Municipal



Corporations after the basic framework of Bombay. With the democratization of the corporation councils, the concept of coordinate authorities came to be regarded as an unwavering custodian of 'efficiency' and a salutary check on the representative council. Although after Independence, revolutionary changes have taken place in the structure of government at higher levels, yet in the field of Municipal Corporations no significant change has taken place, except in the case of Delhi Municipal Corporation.

Since the basic framework of the Municipal Corporation of Bombay has been the model for all, corporation government throughout India is structurally uniform. An Act governing a corporation invariably provides for three coordinate authorities, viz., the corporation or the city council, the State-appointed commissioner and one or more standing committees. The number of statutory authorities has been increased in some instances to give autonomy, within the general framework of the corporation, to the administration of specific public utility services, such as water supply and sewerage, transport and electricity. By contrast, municipalities in India exhibit varieties in their governmental structures. The traditional framework has been of a conciliar type, the council consisting of popular representatives exercising powers in corporate capacity. The chairman (also known as president) and his deputy enjoy limited statutory powers, but the council can give them more powers by delegation. As the office of executive officer has not developed except in a few places, the chairman remains the head of both the council and the executive administration of the municipality. Even now, this is the model of municipal government throughout eastern, northern and western India, although the office of the executive officer has been created in most places to strengthen executive administration. In general, the executive officer functions under the general guidance and direction of the municipal chairman. However, municipal structure in the southern States is somewhat different.<sup>1</sup>

The various local self-governing institutions in the country may be broadly grouped into the following classes : (i) Urban-Corporation, Port Trusts, Improvement Trusts, Municipalities, Cantonment Boards, Notified Town Areas. A Municipal Corporation is different from a Municipal Board in respect of the scope of its powers and functions. The former is especially created by an Act of the Legislature concerned for a particular big city or cities. Its chairman is known as Mayor and it may have some aldermen. In its working it enjoys much greater autonomy than Municipal Boards. The older corporations are those of Bombay, Madras and Calcutta ; recently corporations have been established in Nagpur and Jabalpur and the U. P. Government has also established similar bodies in the five big cities of the State viz. Kanpur, Lucknow, Allahabad, Agra and

<sup>1</sup> M. Bhattacharya, *Management of Urban Government of India*, 2-10.

Varanasi. A Cantonment Board is meant for large military stations. It manages the Municipal affairs for the civil area lying in the cantonment limits. Its functions and powers are more or less similar to those of a Municipal Board. The chief difference between the two is as regards their constitution. While the Municipalities are created by the State laws, the Cantonment Boards are constituted under central legislation. Recently their organisation has been considerably democratised and elected members are now chosen on the basis of adult franchise ; moreover, such boards contain a number of army officials.

A Port Trust is created to manage the ports like Calcutta, Bombay and Madras. Its constitution is also based on central legislation, and it consists of some members nominated by the Government and the rest elected by corporations and chambers of commerce, etc. Its chairman is an official, and its important functions are : to manage the affairs of the port, to look after its protection, to build docks and godowns, to provide facilities for loading and unloading of goods and amenities for the travellers. An Improvement Trust is created in large cities in addition to the municipal body. Its functions differ from those of a municipality ; and these may include : (1) to widen the existing streets and roads and construct new ones ; (2) to build houses for the labourers and the poor people ; (3) to provide parks, playgrounds ; and (4) to provide for broad streets and open houses particularly in thickly populated portions of the city.

#### MUNICIPALITIES IN U. P.<sup>1</sup>

The first Municipalities Act in U. P. was enacted in 1916. Since then it has been amended from time to time. At present there are nearly 110 Municipalities in the State, excluding the big cities for which corporations have been created after the enactment of necessary legislation. Every city with more than 10,000 inhabitants now has a Municipality, and all the members of a Municipality are elected, nominations having been abolished altogether as they were considered anti-democratic. The size of Municipalities varies between 15 to 60 members ; actual number for various Municipalities is fixed by the State Government. The election of members now takes place in accordance with the system of joint electorates, on the basis of adult franchise ; but seats have been reserved for the time being for Scheduled Castes only. For purposes of election a Municipal Board is divided into wards. The Municipal Board has a right to co-opt some members, *i. e.*, such persons, who have specialised knowledge of a particular field and whose experience and services are considered useful for the people, may be appointed as

<sup>1</sup> The Government has decided in favour of directly elected chairmen of local bodies.

members.

The Municipal Board has among its officials—Senior and Junior Vice-Chairman, elected by the members ; Executive Officer (Secretary in the case of small Municipalities) ; Superintendents of Education, Water Works, Light, and Octroi ; Medical Officer and Municipal Engineer. The Municipality elects every year, various standing committees and their chairmen ; important committees are in charge of separate departments *e. g.* finance, education, public health, octroi, water works, light, public works department, etc. Important functions of Municipalities are : (i) provision of common amenities of life—construction and maintenance of roads, parks, fire brigade, housing for the poor, construction of shops, markets and limited town planning ; (ii) public health, maintaining hospitals, dispensaries, sanitary staff, checking adulteration of foodstuffs, starting physical culture centres ; (iii) education, primary and secondary schools, libraries, reading rooms, exhibitions, fairs, etc. ; and (iv) others—street lighting, transport, municipal markets.

#### NOTIFIED AND TOWN AREA COMMITTEES

In towns with less than 10,000 inhabitants there are the notified committees for big towns and town area committees for small towns. The size of these committees is smaller and the scope of their functions and powers decreases as we go down the various levels of these bodies. The committees are constituted in almost the same manner as the Municipalities.

#### CORPORATIONS IN KAVAL TOWNS

Under the U. P. Nagar Mahapalikas Act, 1958, Corporations (Mahapalikas) have been established in the cities of Kanpur, Allahabad, Varanasi, Agra and Lucknow. The Corporation authorities include : (a) Mahapalika, (b) Executive Committee of the Mahapalika, (c) Development Committee, (d) Chief Executive Officer, and (e) Separate Committees for Electricity, Transport and other Public Services. The chief of the Mahapalika is known as Mayor (Nagar Pramukh). Each Corporation consists of members (sabhasad) and aldermen (vishshita-sadasya), the number of the former is fixed by the State Government and the number of the latter is to be  $\frac{1}{4}$ th of the former. The members are chosen by voters in the different wards and they elect the aldermen. Seats have been reserved for Scheduled Castes in proportion to their population. The Mayor is a resident of the city and should be above 30 years. He is elected annually ; and there is also provision for an elected deputy mayor.

The Executive Committee of the Corporation consists of (i) Deputy mayor, who is also its ex-officio chairman, and (ii) twelve members elected by the members and the aldermen. Half of its

members retire annually. The Development Committee consists of : (a) Deputy Mayor, as ex-officio chairman, (b) 10 members elected by the members and aldermen, and (c) two co-opted members. The term of the Corporation has been fixed at 5 years. Their functions are as wide as those of corporations in other large cities. The Corporation can devise schemes and implement them for the improvement of the city, for example, (i) general improvement ; (ii) slum clearance and rebuilding, (iii) housing, (iv) roads, (v) housing accommodation, and (vi) city expansion. Corporation's powers of taxation are : (a) property, (b) boats and vehicles, (c) animals used for conveyance or transport, (d) octroi, (e) professions and trades, (f) dogs, (g) transfer of immovable property situated in the city, (h) advertisements other than those contained in newspapers, (i) theatre; and (j) betterment tax, tax to be charged on the increase in the value of land in a scheme put into operation or on the increase in the value of any land adjacent to and within one-quarter of a mile of the boundaries of such a scheme.

#### MUNICIPAL AUTHORITIES IN ANDHRA PRADESH

Before the formation of Andhra Pradesh (A. P.) there were separate Acts for the Andhra and Telangana regions. The integrated Municipalities Act was passed in 1965 and the same was further amended in 1974. The salient changes made by the Act are : (1) The term of office for the councillors was fixed at 5 years; (2) Provision was made for payment of honorarium to the chairman and sitting fees to councillors; (3) Levy of property tax on a graded basis on the rental value of buildings and lands; (4) Advertisement tax; (5) Execution of works and contracts, the value of which does not exceed Rs. 10,000 by the executive officer with the approval of Contract Committee; (6) The council may accord sanction to new-posts—temporary or permanent—if the maximum pay does not exceed Rs. 125 p. m.; (7) Constitution of Contract and Appointment Committees; (8) Levy of taxes half-yearly ; and (9) Constitution of Water Boards for construction and maintenance of water works.

The Act provides for three bodies charged with carrying out the provisions of the Act. There are : (i) A council, (ii) A chairman, and (iii) A commissioner. The council consists of (a) elected councillors (b) ex-officio members and (c) reserved seats, if any. The number of elected members ranges from 20 to 50 in proportion with the population. A member of the Legislative Assembly, becomes member of one municipal council only even if more than one council are comprised within his constituency. Every member of the Legislative Council is also an ex-officio member if his name is included in the electoral roll of a municipality. In any municipality, the State Government may reserve seats for : (i) members of the Scheduled Castes ; (ii) members of the Scheduled Tribes; and (iii) women. The

Act has provided for multi-member wards. The chairman is elected from amongst the members of the council. The powers and functions of the council are : (1) submission to the Government through the District Collector a report on the administration ; (2) It is obligatory on its part to inform the Zila Parishad about its plan and schemes; (3) maintenance of public streets, pavements, and drains ; (4) lighting, watering and scavenging ; (5) acquisition of immovable property ; (6) making contracts upto the value of Rs. 10,000 ; (7) power over other branches of administration like water supply, lighting, drainage, building regulations, and vital statistics.

#### MUNICIPAL CORPORATION OF HYDERABAD

According to the Hyderabad Municipal Corporation Act (1950 amended in 1955 and 1974) the following three bodies run the affairs of the Corporation : (1) The Corporation, (2) The Standing Committee, and (3) The Municipal Commissioner. The Corporation headed by a Mayor, is a deliberative body, which can discuss all matters relating to the administration and policies of the Corporation. The present strength of the Corporation is 100 and the elected members hold office for a term of 4 years. The Act provides for : (i) 20 seats, reserved for Scheduled Castes; (ii) at least 20 seats for the city of Secunderabad; and (iii) membership for members of the state legislature elected from the cities of Hyderabad and Secunderabad.

The Standing Committee consists of 16 members elected from amongst the members of the Corporation (10 from Hyderabad area and 6 from Secunderabad area). It is intimately connected with the day-to-day administration. It also acts like the finance committee, which watches closely the revenue and expenditure. The Commissioner is the administrative head charged with the responsibilities of running the administration in accordance with the directions of the Standing Committee and the provisions of the Corporation Act. He is assisted by the following departmental heads : Medical Officer of Health, City Engineer, Executive and Drainage Engineer, Assessor and Collector, Examiner of Accounts and Municipal Secretary. The Corporation can also appoint ad hoc committees, for example, Law, Act Amendment and Administrative Committee and Relief Committee. For administrative purposes the city is divided into 4 circles which are subdivided into 23 wards. Each circle is under the charge of an Assistant Medical Officer.

#### PATNA CORPORATION

It was established on 15 August 1952. It consists of 52 members, 37 of whom are elected from the same number of city wards and the rest are nominated government officials or representatives of special interests. The term of elected members is four years; and these very members elect a mayor and a deputy mayor every

year in the first meeting of the Corporation. The Corporation also sets up standing committees for the efficient conduct of its work. Its highest paid officer is known as the Chief Executive Officer, whose appointment is made by the State Public Service Commission with the consultation of the Mayor for a term of 5 years. There is also provision for a deputy Chief Executive Officer. The functions of the Corporation are sufficiently wide and its sources of income are also adequate.

#### DELHI CORPORATION

There is a Corporation for the whole of the Union Territory of Delhi. Its most distinctive feature, therefore, is that it includes large portions of rural areas. The Corporation was established in 1953 after the recommendation of the States Reorganisation Commission. It comprises an area of about 500 sq. miles, because it includes about 300 villages in addition to the various urban areas. But some parts of New Delhi, which is the capital of the Union Government, are excluded from its jurisdiction. The Corporation consists of 80 members at least, 20 of whom represent Scheduled Castes. The members are elected from different wards into which the whole area is divided. The members are elected for a term of 4 years; and the members elect 6 aldermen. The members also elect a mayor, deputy-mayor, a standing committee and certain other committees every year. The Corporation has wide authority, and the Electric Supply Company, Delhi Transport Undertaking, Joint Water and Sewage Board—the important statutory bodies, have also been brought under the control of the Corporation.

### III. ADMINISTRATIVE ASPECTS OF URBAN GOVERNMENT

We propose to discuss the following aspects very briefly :

- |                    |                                    |
|--------------------|------------------------------------|
| (1) The Functions, | (3) Provincialisation of Services, |
| (2) The Finances,  | (4) Management Structure.          |

#### THE FUNCTIONS

Usually, the Municipal Acts in India contain long lists of municipal functions, but in practice the large majority of municipal bodies perform only a few positive service functions, e.g., public health—including water supply and sanitation, medical relief, vaccination and inoculation, registration of births and deaths; primary education, public safety and convenience; and roads and public works. In addition to these, they have some regulatory functions, important ones among which are building regulations, abatement of

nuisances, inspection of markets and slaughter houses, and prevention of food adulteration. In general the municipal corporations have more functions than the ordinary municipalities. There are very few instances of milk supply schemes or zoological gardens being run by municipal authorities.

A recent United Nations Study reporting inter alia on the administration of selected urban services such as water supply, education, mass transport and public housing, observes : 'In almost all the cities studied, the present supply of services is usually inadequate for the demand. Readjustment in governmental institutions appears in some instances to be necessary, if the cities are to receive the services which they need.' The study has revealed the gross inadequacy of municipal services in all class of towns, except in a few cities, where per capita expenditure exceeds Rs. 40 per annum. In 50 per cent of the local bodies studied, the per capita expenditure on public health and sanitation is less than one rupee annually. Water-works exist in 33 of them and only 10 have underground sewerage. Most of the medium and small towns have no drainage system. Even in the larger towns, there exist open drains and in sizable cities like Gorakhpur, Hyderabad, Kanpur and Lucknow nearly 40 per cent of the streets are lacking in proper drainage facilities. In Hyderabad, Kanpur and Lucknow, more than 60 per cent of the houses have no connection with sewers. These evidences point out the inability of the municipal system in India to adapt itself to the rapidly changing environment. Within itself, the system has not been able to evolve sufficient 'differentiation' in respect of the environmental demands on its domain.

Generally speaking municipal functions have expanded very little over the years. In actuality there has been a trend towards divesting the municipal bodies of their traditional functions and responsibilities. The debilitating condition of the municipal institutions has become an excuse for the establishment of new urban local institutions like Improvement Trusts, Housing Boards, and Water Supply and Sewerage Boards, and even for taking over the local functions by the State Governments. The threat of still further erosion of municipal functions is coming from the direction of the functional departments of State Governments. The proposed State level water board in Uttar Pradesh is a typical example of the emerging situation. It is the misguided enthusiasm of the State Local Self-Government Engineering Department that has been instrumental in formulating a plan for the take-over of municipal water supply and allied functions by the proposed Water Board. In West Bengal, the medical and health services of municipalities have long been provincialized and recently the State Public Health Engineering Department has made a proposal to divest the municipal bodies of their responsibilities with regard to water supply. Primary education

is looked after by the State Government in quite a few States, such as Rajasthan, Kerala, Jammu and Kashmir, and Punjab, and a State take-over is actively being considered in West Bengal. 'Local Government has its basis in the decentralisation of power and functions, but in contemporary India the State Governments are in general reluctant to delegate new functions to the urban local bodies.'<sup>1</sup>

It may particularly be pointed out that in the post-independence period, problems of urban local government did not receive, especially in earlier years, the same attention as rural local government did. As years passed, the idea grew that certain areas in cities, specially those where slums were located, might be developed on lines similar to the community development programmes in rural areas. The Report of the Advisory Committee on Slum Clearance (1958) made recommendations in regard to slum clearance and pointed out that 'the clearance of slums should be viewed as a part of the problem of urban development. It was in the Third Five-Year Plan that the Planning Commission paid for the first time some attention to the acute problems created by the process of rapid urbanization through which the country is passing. Even then no comprehensive scheme was evolved to solve all the essential problems. Only one of them was taken into consideration and it was the problem of the location of industries in urban areas and the control of land values with which housing was closely connected.

Urbanisation is an important aspect of the process of economic and social development and is closely connected with many other problems, such as migration from villages to towns, relative costs of providing economic and social services in towns of varying size, provision of housing for different sections of the population, provision of facilities like water supply, sanitation, transport and power, pattern of economic development, location and dispersal of industries, civic administration, etc. Much of the deterioration which occurs in living conditions in rapidly growing urban areas is due to the high cost of urban development, in particular, the cost of providing housing, water supply, drainage, transport and other services. The situation is further accentuated by the existence of unemployment, over-crowding and the growth of slums and the fact that a significant proportion of the population in many cities is without shelter.

There are certain minimum directions in which action should be taken; these are : (i) control of urban land values through public acquisition of land by appropriate fiscal policies; (ii) physical planning of the use of land and the preparation of master plans; (iii) defining tolerable minimum standards for housing and other services to be provided; and (iv) strengthening of municipal administrations for undertaking new development responsibilities. After a good deal

<sup>1</sup> M. Bhattacharya, *op. cit.*, 22-24.



of deliberation, the conclusion was reached that the lowest grade municipal body must provide the following minimum facilities : (a) potable water supply; (b) street lighting, preferably electric; (c) drainage, at least pucca surface drains; (d) surfaced roads and streets; and (e) sanitation, conservancy and arrangements for the disposal of town refuse and prevention of epidemics.<sup>1</sup>

#### THE FINANCES

The State grant to municipalities which is used as a developmental aid in countries like England, has remained in India as low as less than 15 per cent of municipal revenue. After independence, local self-government naturally expected a patronage within the framework of national democracy; but as the following table shows, municipal finances present a dismal picture of continued stagnation. This is particularly alarming in view of the fact that the national five-year plans have been launched to achieve accelerated economic development. It seems that the plans have had little impact on the finances of municipal bodies. Revenue studies have shown that the municipal authorities find it increasingly difficult to plug the gap between resources and expenditure and, in consequence, the standards of municipal services have been consistently going down.

REVENUE STRUCTURE OF URBAN LOCAL BODIES,  
1950-51 TO 1960-61

Sources of Revenue	1950-51	1960-61
1. Tax Revenue	63.50	66.00
2. Non-tax revenue excluding grants	24.40	20.50
3. Grants-in-aid	12.10	13.50
Total	100.00	100.00

Wherever property tax is the mainstay of municipal revenue, the procedure for assessment and valuation of property for the purpose of imposition of the tax has frequently and rightly been criticised on the ground that there is under-assessment owing to the interference of elected representatives. But since the inauguration of the national Five-Year Plans, some Plan funds have filtered down to the municipal bodies via the State Governments. For instance, under the National Water Supply and Sanitation Scheme cent per cent loan assistance is given for municipal water supply projects; for sewerage projects 75 per cent loan assistance is provided and the remaining 25 per cent subsidy is contributed equally by the Centre and the State Governments. Other important Plan schemes under which the municipal bodies have obtained funds are the Slum

<sup>1</sup> See M. Venkatarangaiya and M. Bhattacharya, *Local Government in India : Select Readings*, 406-13.

Clearance and Improvement Scheme, and the subsidised Housing Scheme.

#### AUGMENTATION OF RESOURCES : ZACHARIA COMMITTEE

Hereunder follows the summary of the main recommendations made by the Rafiq Zacharia Committee on augmentation of financial resources of Urban Local Bodies (1963) :

(1) All schemes pertaining to urban development should be brought together and executed in a co-ordinated manner within the framework of a master plan for comprehensive development. Every master plan should be translated into a master programme consisting of a number of specific schemes and each local body should prepare five-year City Development Programmes in accordance with which the various schemes in order of priority would be executed.

(2) A statutory Urban Development Board should be set up in each State, which should be empowered to acquire lands and properties wherever necessary and undertake most aspects of town development.

(3) Licensing system should be made more efficient and more comprehensive.

(4) Urban local bodies should be encouraged to take up remunerative activities which would create permanent assets yielding perennial non-tax income. As far as possible these remunerative activities should be financed out of a revenue fund.

(5) The property tax should be administered under conditions which would give best possible results. To utilise this tax properly, the following measures are recommended : (a) A Central Valuation Department should be set up in each State to get the work of assessment of properties in different municipalities, done and also take up systematically at regular intervals, reassessment of urban properties. (b) The property tax should be freed from the restrictive influence of the Rent Control Act either by imposing a 25 per cent surcharge on the existing property tax and allowing the property owner to shift the entire burden of this surcharge on the tenants or by a suitable legal provision which would enable recovery of the difference between the property tax based on the reasonable annual rental value and the property tax based on standard rent from the property-owner and allowing him to treat this difference as arrears of rent for the purpose of recovery. (c) A statutory minimum and maximum should be fixed for property tax. A provision should also be made in the Municipal Act to enable the State Government to impose property tax at any rate considered reasonable by the State Government if the municipality fails to impose tax at that rate. (d) The State Government properties and Central Government properties

should be subjected to property tax and service tax in the same manner as any private property.

#### PROVINCIALISATION OF MUNICIPAL SERVICES

The demand for provincialisation of municipal services in India has been made from time to time and from many quarters. The first Conference of Local Self-Government Ministers held in August 1948 adopted the following resolution : 'In view of the fact that provincial cadre will facilitate recruitment of suitable personnel from a wide field and provide a more efficient and competent service, this Conference is of the opinion that there should be provincial cadre for the higher executive and technical staff employed by local bodies.' The same principle was reiterated in the second Conference in 1954. The meeting of the Central Council of Local Self-Government held in 1960 also adopted the following resolution : 'Having regard to the need to ensure efficient working of the municipalities in their day-to-day administration, including realization of taxes and speedy implementation of development and other works, the council is of the opinion that State Government should take steps as far as possible for the setting up of the State cadres for such classes of municipal officers as they deem advisable.'

These proposals were also supported by the all India Council of Mayors and the Conference of Municipal Corporations at their meetings. The Fourth Conference of Ministers of Town and Country Planning held in 1963 adopted the following resolution : 'The Conference having considered the need for improving the efficiency and standard of municipal services reiterates its recommendations to all State Governments to provincialize administrative, health, emergency and town planning services of municipalities in the interests of better and more efficient administration.' Very recently the Rural-Urban Relationship Committee has not only recommended the provincialisation of certain categories of municipal personnel but also laid down broad principle which may be followed by the State Governments in achieving its objectives.

According to G.S. Badhe, there are various factors which have led to the demand for provincialization of municipal services. In spite of all efforts on the part of some State Governments to make municipal bodies adopt merit system to ensure administrative efficiency, the situation has not improved. What the Americans call the spoils system is so well entrenched in the municipal administration that its grip is not loosened. A large number of employees is recruited on considerations other than merit. It is not surprising that these employees would work for their local bosses who show favour to them. In its Report, the Rural-Urban Relationship Committee has stated : 'The officers and staff curry favour with factional politics. Cases are not unknown where clever Executive

Officers played an effective role in the election of Chairman of the Council and its Committees.'

Besides, there are other shortcomings in the administration of municipal services. The best selection of persons demands close contacts between municipal government and universities, colleges, technical schools and other institutions. Most of the local areas where municipal government is at present constituted do not have such agencies, and in consequence the municipal authorities select whosoever is available in their local areas. Another important obstacle in the appointment of qualified persons is that almost all municipal employees are local residents. Municipal government cannot attain high efficiency so long as this residence-rule is retained. Among other defects mention may be made of inadequate promotional opportunities, provision for inter-transferability; in-service training facilities, and service securities which can in large measure enthuse and ensure such essential ingredients of efficiency as competency, integrity, impartiality, devotion to duty and social responsibility. 'The need for provincialisation of municipal services in India is also felt on practical considerations. The municipal services have assumed far greater importance than ever before. The limited functions of municipal government in the past did not render large staffs and huge expenditure necessary.'<sup>1</sup>

#### MANAGEMENT STRUCTURE

M. Bhattacharya has rightly portrayed the present state of affairs in these words : 'More than a century and a half have elapsed since the British gave us the municipal institution. By now, after decades of apprenticeship one would have expected the Indians to develop expertise in the operation of this imported machine. But from all accounts it appears that our municipal institutions in most instances remain at the subrub of our mind. We are reluctant to pay taxes and are annoyed at the idea of a raise. Building bye-laws and other municipal rules and regulations are frequently violated and these have in many cases been reduced to dead letter. Our municipal councils are notorious for rowdy scenes and are incapable of taking decisions. The councillors and the appointed officials are perpetually at logger-heads. So far as the citizens are concerned, they have hardly any loyalty to their local councils. When a municipality is superseded by the State government, there would rarely be even the faintest opposition to it from the local residents. Rather they would be having a sigh of relief.'

In plain words, it is the time-honoured internal management structure which is faulty. By management structure he means the decision-making mechanism and the regulating and co-ordinating

<sup>1</sup> See O. P. Motwal, *Changing Aspects of Public Administration in India*, 135-36.

foci. It also includes the 'inputs' of management such as the role-holders in the capacities of councillors and administrators (officers), and their respective behavioural dispositions. In spite of the policy of de-bureaucratization, the process of interaction between the councillors and the administrators has made the municipal decision-making mechanism highly diffused and fluid. Especially, in the larger municipal authorities and corporations where speedy decisions are badly needed and considerable sophistication in processing of decisions is called for, the diffused structure of management has consistently been a stumbling block to efficient decision-making.

'In our municipal government, this cardinal principle of organisation is not observed. The municipal council board is meant to be a local legislature; its role is legislative. So far as executive authority is concerned, one has to search hard for one in our municipal government. In fact, it does not exist. And that is the crux of the problem. In a representative government, the appointed civil servant cannot, on principle, assume the role of a political executive. The executive in political government has to be political. It is symbolic of management of 'public interest' by the elected representatives of the people. In reality, of course, the political executive would be seeking the help of experts to run the administration.'

The Commission/Executive Officer in a municipality can be and should be the chief advisor to the municipal political executive. As an expert in municipal management, his responsibility is to supply data and information, place alternative choices for decision-making, hold brief for the overall management of municipal affairs, to advise and even at times caution the political executive. The models of political executive can be suggested : presidential and president-in-council. A presidential form of municipal political executive will be very much like the American national executive. The municipal president will be directly elected by the whole town and he cannot be removed by a vote of no-confidence passed by the council. He will govern for a full term, unless of course there are serious allegations against him for which a quasi-judicial inquiry may be instituted and action taken on that basis. The other model, president-in-council, comes close to the well-known cabinet system of government. It is a kind of collective, plural executive.

'Finally, a few words about the need for a new class of urban managers should be in order. Municipal administration today, especially in big cities, is a highly professional job, which calls for considerable sophistication in management, decision-making, planning, organizing, control and evaluation. In a situation characterised by limited funds, the chief officer of a municipality must be able to harness all possible resources, plan the activities coherently to fulfil certain, specified objectives and try to get the best results out of

#### IV. IMPROVING URBAN GOVERNMENT

The Fifth Plan identified the following broad objectives : (i) to augment civic services in urban centres in order to make them fit for a reasonable level of living; (ii) to try to deal with the problems of metropolitan cities on a more comprehensive and regional basis; (iii) to develop the smaller towns and new urban centres to ease the pressure of urbanization on the larger metropolitan centres; (iv) to conceive and push through projects of national importance such as those relating to metropolitan areas or inter-state projects. It also underlined the need for a multi-faceted strategy to tackle the complex problems of urbanisation. To cite a few instances, for a more desirable and balanced spatial distribution of economic activity, appropriate measures have to be adopted to attract industries to new urban centres. At the other end, certain disincentives have to be created to prevent the cityward movement of population.

The latest thinking on the subject is contained in the national urbanization policy resolution, 1975, prepared by the town and country planning organisation of the Government of India. The major objectives of national urbanisation policy have been identified as follows : (a) Evolving a spatial pattern of economic development and location of a hierarchy of human settlements consistent with the exploitation of natural and human resources of the region, and ensuring functional linkages inter se; (b) Securing optimum distribution of population between rural and urban settlements within each region and also among the towns of various sizes; (c) Securing distribution of economic activities in small and medium size towns and in new growth centres in order to achieve maximum economic growth for the future; (d) Controlling and where necessary arresting the further growth of metropolitan cities by dispersal of economic activities ; legislative measures and establishment of new counter magnets in the region; and (e) providing minimum level of services for improving the quality of life in rural and urban areas and reducing gradually the difference between rural and urban living.

Within the above framework, the different urban centres have been classified in the following way : (i) Metropolitan cities with a population of 1 million and above; (ii) Class I cities with a population of 1,00,000 to 1 million, (iii) Medium size towns with a population of 50,000 to 1,00,000; and (iv) Small towns with a population of 5,000 to 50,000. With a view to guiding future urban growth along desirable lines, action programmes have been suggested in respect of the foregoing types of urban centres. In the first category, the fast expanding metropolitan cities have to be subjected to proper

<sup>1</sup> M. Bhattacharya, *op. cit.*, 34-43.

planning and development to guard against unregulated urban growth in future. A policy of decongestion of these cities and decentralisation of industries has to be followed up by a proper industrial location policy that would provide incentives to new industrial units away from the metropolitan cities. Such a policy should also have certain disincentives for industries to come up in the already congested metropolitan centres. Another method will be to extend the planning frame to wide region surrounding the metropolis. Within this region, growth foci have to be identified, planned and developed. These sub-regional centres will be able to absorb much of the population load of the metropolis.

In the second category falls a group of intermediate cities which offer the second best opportunity for the development of large and medium industries. If these cities are developed within proper plan frames and endowed with necessary urban infrastructure, they can act as counter magnets to the metropolitan cities. The medium towns in the third category can be developed as growth centres. Conditions for self-sustaining growth have to be created and necessary infrastructure provided to help them grow. As agriculture will continue to undergo a process of modernization, various farm and non-farm needs of the rural population may be met from the medium towns where agro-industries and small-scale industries can be located providing in the process opportunities for employment to the job seekers. The small towns at the bottom of the hierarchy, as already mentioned, will grow as rural service centres catering to the needs of their surrounding areas.

During the past two decades there has been very high and unplanned increase in population both in the towns and villages. The explosion in numbers has been almost tragic, specially as the rate of increase amongst the weaker sections and the lower income groups has been many times higher than that amongst the higher socio-economic strata. Consequently, the poverty line has engulfed millions more. This has resulted in continuous, unplanned and unforeseen influx of the surplus and underemployed rural labour to the nearest towns and cities, in search of jobs which do not exist. Such migration has resulted in exerting enormous pressure on the already inadequate civic infra-structure in the urban areas.

It is in this context that whereas up to even the early sixties life in the urban areas was regulated basically through the provisions of the Municipal and the town Improvement Acts, in recent years almost every State Government has sought to resolve the extremely complicated problems of urbanisation by establishing housing boards, water supply, sewerage and slum clearance boards, electric supply, milk supply and transport undertakings, etc. In the larger cities, the erstwhile municipal committees have been replaced by municipal corporations. These various bodies, each in their own way, are

intended to deal with various aspects of life in the urban areas and each draws its sustenance from especially evolved enactments.

The net result is that in most States, today, along with the age-old municipalities and trusts, there is a plethora of new local government authorities, some entirely within the control of the State Governments, some partially and some only peripherally. There is no legal or administrative organisation to integrate and co-ordinate the functioning of the various departments of the State Governments concerned with one or the other aspect of urban administration and the veritable host of local authorities. In the obtaining situation there is considerable overlapping of functions between the various boards, corporations, committees, trusts and undertakings on the one side and the concerned departments of the State Government, on the other.

*Need for a Look :* The problem does not end here. The establishment and consequent maintenance of a viable urban habitat requires the co-ordinated and reliable supply of a horde of services and amenities. Despite the experience gained during well over two decades of planned development, the host of issues which constitute planned urban development are not being perceived and dealt with properly. Recently, there has been a sudden awareness of the need to ensure minimum livable conditions in human settlements, rural or urban. After the recent United Nations Conference at Vancouver the word 'habitat' has, almost overnight, become fashionable and, consequently, oft repeated. A large number of adventurists have suddenly surfaced, claiming unmatched expertise in resolving the ills of life, through their 'habitat' forums and consultancy organisations. Be the facts as they may, this new found 'habitat' approach has highlighted, at least to the serious student and observer, that orderly and planned urban development cannot be considered in isolation. The balance of the natural environment having been badly ruptured by our unwitting bungling in the past, aspects of rural-urban relationship have to be considered afresh, urgently and in an altogether new light.

'It is vitally essential to consider the entire situation and evolve detailed plans for the integrated and fully co-ordinated development of both the rural and urban areas. Initially, such a view of planning would require to be taken of the entire area falling within a State, and in due course, to study inter-State connections and then evolve regional development plans. Viable spatial plans cannot be evolved or enforced through executive orders or slogan mongering. It has, therefore, become necessary to evolve a well-considered national law on regional town planning under which it would be the statutory obligation of every State to evolve comprehensive, legally binding, spatial plans, covering its entire territory and, thereafter, refer them to a national, statutory organisation for the integration of inter-State



matters, e.g. alignment of national highways, rail routes, canal and waterways, industrial belts, forests, national parks, etc. Unless such a law is enacted in the immediate future and thereafter enforced vigorously by all the States in the country we may have many more miles to go.<sup>1</sup>

#### CITIZENS' COOPERATION

In municipal sphere, citizens' interest in local affairs is a very valuable asset for local administration. Unlike the higher levels of government, municipal government is closest to the people, and it is this intimate government citizen nexus that justifies the existence of local government. Mere casting of a vote to elect a city government is no evidence of civic consciousness. Public attitude to city sanitation is a typical instance of general apathy to public problems. What belongs to everybody belongs really to nobody. So, why care about litter or garbage. In majority of cases, lack of sense of sanitation has its deep roots in personal living. For, it is rare that a person is sanitation-minded at home and different outside. One of the major impediments to good citizenship is poverty. With the exception of a small minority of affluent class, the public in general have been used to facing almost a perennial scarcity of essential civic amenities like water, roads, schools, even burial grounds. On top of it, slums are an endemic phenomenon like festering sores, where urban poverty assumes the ugliest scene. Good citizenship cannot come out of bad living environment.

The alienated citizen is also, to a large extent, a direct result of municipal administrative inefficiency. Yet the average citizen can be won over through the efficient delivery of essential civic services. A good park, a good road, adequate water supply, a timely sanction of building plan—all these are the direct routes to the citizen's heart. Last but not the least, civic consciousness is ill-developed in our country due largely to lack of any regular system of communication between the citizen and municipal administration. The administration treats the citizen as inert objects or automatons that would accept everything thrust on them. We ask the citizen to pay rates, but do not bother to tell him how the money is being spent and on what. Civic consciousness grows out of information feeding. Through different communication media like radio, television, leaflets, brochures, journals, meeting and group discussions, the citizens need to be informed about the civil problems, plans and developments. Many corporation in India have established public relations departments and are publishing civic journals at regular intervals.<sup>2</sup>

The reasons for the present unsatisfactory situation are :

<sup>1</sup> *I. J. P. A.*, October-December 1976, 652-55.

<sup>2</sup> M. Bhattacharya, *op. cit.*, 202-08.

(1) The importance of unification in civil government is not always recognised. A multiplicity of agencies has produced varying degrees of development in a tract that is geographically and economically compact. Lack of co-ordination or integration can lead to duplication and does frequently lead to incomplete development. (2) The absence or halting nature of measures to control the growth of cities. (3) Paucity of resources for serving the needs of a rapidly growing community is probably the most important single factor operating to the detriment of civic government. The sources of income allocated are inadequate. (4) Apart from the statutory provisions, which are becoming more common now, healthy conventions that guard the integrity of the services and define their field of operation are also essential.

A number of suggestions put forward by different persons for the improvement of local self-governing bodies in the cities may briefly be discussed here :

(1) Some thinkers suggest that elections to urban bodies should be held on non-party basis. But there are those who believe that elections are an essential feature of democratic institutions and parties must crop up as a result of elections. The suggestion may be tried in selected places, and if found practicable the experiment may be extended to other places.

(2) Since the elected councillors take a very active interest in the recruitment, promotion, demotion, etc. of the employees the result is that due to favouritism even incompetent staff is employed. Moreover, most of the members are corrupt and irresponsible and interfere with the work of the administrative staff. It has, therefore, been suggested that the work of administration must be left to an executive officer in a small city and to a commissioner in a big corporation. Moreover, the State Government should prescribe minimum qualifications for appointment of most of the staff and some of the important services, e.g., those of executive officers or secretaries, education superintendents, health officers, engineers, etc. should be controlled and regulated by the State. The Urban Local Self-Government Committee, appointed by the Government of Madhya Pradesh, in 1957, in its report has recommended that there should be three State-wide services for Chief Executive Officers, Health Officers and Engineers.

(3) It is desirable that greater freedom of action be permitted to various bodies than what they are allowed at the present; but at the same time powers of State control and supervision over the local bodies should be strictly exercised and, if necessary, bodies which misuse their powers and fail to respond to advice and warning from the government may be superseded and administrators appointed to carry on their functions.

(4) In order that municipal boards may provide better services

and greater amenities to the inhabitants it is necessary that amendments to the statutes for permitting greater scope of activity should be made and ways and means should be devised to increase their financial resources. The growth of the revenues of local bodies has been slow as compared to the increased functions expected to be performed by them. Property taxes (including house-tax and service charges for water, lighting and conservancy) continue to be the main-stay of city corporations and municipalities; octroi and terminal taxes are also an important source of municipal income in some states. The Taxation Enquiry Commission, which explored the subject thoroughly, was of the view that a sound system of local finance can rest only on local and direct taxation. The Commission felt that the present tendency of the State Governments to encroach on the taxation powers of the local bodies should be curbed and certain taxes should be reserved for their exclusive utilization.

(5) The voters should return suitable candidates, who have a record of public service to their credit. Considerations of caste, religion, community or mohalla should not weigh with them. Charges of corruption and favouritism against councillors should be properly investigated and if established they should be removed from membership and should also be disqualified for a number of years.

(6) It is desirable to have some authority which should coordinate the programmes and policies of different municipal bodies particularly in the field of those activities which cannot be performed satisfactorily by individual bodies. Every State Government should establish fully equipped town planning departments which should help local bodies in preparing and implementing their plans for town improvement.

(7) Most important of all the suggestions is that which aims at improving city government through citizens' active participation in the work of local bodies. This can be achieved in these ways : (a) To set up a Brains Trust of citizens who would objectively advise the Chief Executive Officer. (b) Setting up an adequate machinery to analyse the complaints of the citizens and set things right as soon as possible. (c) There should be public relations officers. (d) In order to educate the public on civil affairs they should secure the active help of the newspapers and wherever finances permit they should publish their own weeklies or monthlies dealing with local affairs and problems. (e) Ward and Mohalla Committees should be set up to promote greater interest in municipal affairs and help in removing public indifference.<sup>1</sup>

The Indian Council of Mayors has recommended that a municipal finance commission be appointed in various States every five years to provide financial insurance for local bodies against arbitrary financial incursions by State Governments and also to reassess the

<sup>1</sup> *Report on Improving City Government, I. J. P. A., 26 April 1959.*

existing arrangements between the two with the aim of making local bodies self-reliant. The Council has also urged the Central Government to set up a revolving fund of about Rs. 200 crores for the development of urban areas, for provision of essential infrastructure facilities and improving urban community life. The following resolutions *inter alia*, were also adopted by the Council : (1) a uniform law should prevail throughout the country on land acquisition; (2) corporations should be facilitated to avail themselves of help from international bodies like the World Bank and International Development Authority, channelized through the Central Government; and (3) necessary law should be enacted to enable civic bodies to utilize amounts from employees' provident fund pools for helping them to subscribe to loans floated periodically by corporations.

The Rural-Urban Relationship Committee, having carefully considered the various view-points, recommended that every Corporation and major Municipal Council may have four functional committees for Planning and Development, Works and Housing, Health and Sanitation, and Education. The members as well as the Chairman of the Committees should be elected by the Councils. Over and above this there should be a Coordination and Finance Committee, headed by the Mayor of a Corporation or Chairman of a Municipality, as the case may be. The Deputy Mayor/Vice-Chairman and the Chairmen of the four functional Committees should be its members. Two more members may be elected by the Council. Special Committees may also be set up as considered necessary, for specific functions. These Committees should have limited powers, but the Finance and Coordination Committee should play the dominant role in controlling the preparation of budget, supervising all financial matters and ensuring coordinated working of all the departments.

In addition to the above, the following observations about the problem of area and functions are worth noting : 'The legal and political boundaries of cities do not usually take cognizance of the city as a socio-economic fact. The metropolitan area has not been visualized as a single entity in government, although in economic and social affairs its unity has long been accepted. The urban sprawl and ribbon development beyond the municipal limits is a common experience of all growing towns. In some cases the expansion is so large as to include a complex of authorities, with none in a position to deal with the common area problems of arterial highways, transport and communication, electric distribution, water supply and drainage, etc. The physical factor, legal jurisdictions and administrative, technical and financial limitations of the core city prevent its taking up common problems of a metropolitan area. The inevitable result of the process is that the State Government steps in to undertake the broader area-wide functions, through

its own agency or through specially constituted single purpose authorities. The situation created by rapid urban expansion and the relative incapacity and failure of the urban local authorities has resulted in an erosion of municipal autonomy and powers, apart from administrative confusion created by a melange of operating agencies. The powers and administrative organisation of our municipal bodies do not coincide with the economic and social facts of urbanization.

A possible course sometime adopted to deal with the question of government of metropolitan areas or town groups is the extension of the boundaries of the main city and annexation of potential urban areas under a single municipal authority. Some of the cities in India have adopted this course. For instance, the establishment of Delhi Corporation brought together under unified control a number of disjointed municipal bodies as well as rural areas of the Union Territory comprising about 300 villages. Similar action has been taken to include sizable rural areas within municipal limits in Poona, Kanpur etc. On the other hand, the Calcutta corporation had been reluctant to take over the adjoining areas and the Calcutta Metropolitan District covering an area of over 400 sq. miles has 35 municipal bodies, which are generally underdeveloped, their inclusion within the main city places a heavy burden on its resources, apart from being subjected to constant criticism of unequal standards of services in the different acceding localities. The Bombay Corporation after annexing adjoining areas kept separate budgetary accounts for these sub-standard wards, which continued to be differentially served by various municipal utilities. The position is similar in Delhi.

Even where large areas and population in excess of about half a million have been brought together under a centralised municipal authority, it has become necessary to consider measures of decentralisation not only to ensure the effective performance of services and maintenance of municipal amenities but to overcome distance between the citizen and the administration. While the City Council and its executive organs often seem remote, the citizen becomes apathetic to municipal matters. 'It is difficult for local government to flourish in an atmosphere of indifference, suspicion and distrust.' The only sensible solution for such large urban areas is a two-tier system by bringing together existing 'units of local government under a common metropolitan council or a federation of local bodies with area-wide functions that would otherwise remain unattended, such as planning, plan enforcement, development of water-supply, sewerage, electricity, trunk roads, etc. In the case of very large central cities, it may be necessary to introduce a measure of decentralisation entrusting local powers to lower tier units but it is the metropolitan organisation that would be the corporate authority with the requisite financial powers and serving as the link

between the local bodies and the State Government. What is required is a process both of centralization and decentralisation with a proper distribution of functions.<sup>1</sup>

## V. CONTROL OVER LOCAL BODIES

In India, the 'right' to control and supervise the local self-governing institutions is a legacy of the British concept of local government which hinges on the postulate that the 'local communities should have a substantial responsibility for order and for the good conduct of their affairs under the general eye of the central government. However, the British administrators who fostered the growth of local self-governing bodies on a statutory pattern in India in the second half of the 19th century placed a greater premium on the regulatory rather than autonomous aspects of local government. Consequently, the statutes establishing institutions of local self-government in British India were saddled with a complex and comprehensive net-work of controls circumscribing the operational autonomy of the local bodies in all vital matters.'

The Simon Commission Report published in 1929, on the subject of local self-government said : 'Whatever may have been the intention of Ripon Reforms, as expressed in the Resolution of 1882 it is clear to us that, in fact, outside a few Municipalities there was in India nothing that we should recognise as local self-government of the British type, it resembled the French rather than the British system. 'From this, it is obvious that the local self-government in India had grown under official protection and could not easily shake off official trammels. The District Officer presided over the deliberations of the District Board and regarded it as one of his many activities.'

The nature of control exercised by the District Magistrate is not uniform for all urban local bodies. There are in the country today 25 municipal corporations, about 1,500 municipalities, 164 Notified and 327 Town Area Committees. Town Areas are virtually entirely the charge and responsibility of the District Magistrate and he exercises extensive control over its administrative and financial working often through his Sub-Divisional Officers. The Town areas do not even have the independence enjoyed by Panchayats. In the matter of taxes, budget and expenditure on works, staff etc. they depend entirely on the district administration. On the other end are the corporations with elaborate administrative and technical machinery and the executive powers vested in the Municipal Commissioner, who is generally (and particularly in the major cor-

<sup>1</sup> G. Prakash, *Organising City Government*, I. J. P. A., July-September 1968, 509-12.

poration), a very senior officer of the government.

Outside the corporation cities, the District Magistrate exercises wide powers in respect of municipalities by statute or by delegation and as principal adviser to the Commissioner or State Governments in all matters requiring a decision by the respective authorities. There are some variations in different States but, by and large, the ultimate position in all States is practically the same. Most Municipal Acts to the present day vest the Collector and District Magistrate with the power to enter on and inspect any property, works or institutions under the management and control of the municipality, to call for and inspect any records and documents and to obtain any information, return, statement, account or report on the working of the municipality. He can require the municipality to take into consideration any objections or remarks that he may make in this regard. Often he has the power to hear appeals against decisions of the board or executive officers in respect of grant of licences, regulation of trades and markets, assessment of taxes and other appeals including those in disciplinary matters.

As the channel of correspondence between the municipalities and the Commissioner and/or the Government, the District Magistrate has vast opportunities of influencing the working of the urban local bodies. His comments and recommendations on a host of matters such as the constitution of municipalities and changes in their boundaries, municipal byelaws, imposition of taxes and alteration in the existing rates, rules, the annual budget, grant and loans, appointments requiring confirmation or sanction of State Government, etc., carry great weight with the Government. In the event of any action to remove the member or chairman or the dissolution, suspension or supersession of the municipal council for abuse of power or persistent neglect of duty, the burden of making inquiries, obtaining explanation of the municipal body and ultimately of administering these superseded municipality falls generally on the District Magistrate.

It is, however, a fact that the District Magistrate in the midst of his multifarious duties and increasing pressure of work is not able to devote adequate attention to the affairs of the urban local bodies. While different District Magistrates have been known to have taken active interest in the promotion of medical and educational institutions, the main concern of most of the District Officers is the over-riding consideration of law and order. The affairs of urban local bodies have been becoming more complex with the rapid pace of urbanisation and the District Officer cannot be expected to deal with all the problems of the urban local authorities.

Much of the control exercised by the District Officer or the State Government is inherent in the manner in which the urban local bodies developed during the last hundred years. They are not the

product of a spontaneous development from below, but of gradual and cautious transfer of functions and powers from above with all the 'safeguards' in reserve, so that the District Officer could keep a watchful eye on their working and the State Governments could take over the administration in the event of gross financial mismanagement, negligence and default. In the absence of any positive policy for the strengthening of municipal administration to equip them for the new tasks of planning and development, the municipal bodies in the country continue to suffer from serious financial difficulties. They lack appropriate, qualified and competent personnel and no attempts have been made to build up a sound administrative machinery.

The main causes for the continued tutelage of urban local authorities have, therefore, to be traced to their own internal weaknesses indicated before. The local bodies must, no doubt, exert themselves to build up resources and improve their administrative machinery to face the growing civic problems created by rapid urbanization. But the State Governments must also play a positive and sympathetic role and provide necessary assistance, guidance and consultative services. They must also provide the necessary legal and administrative framework for a sound financial organization and a personnel system supported by necessary facilities for training and research.<sup>1</sup>

Now we pass on to the nature of 'State control over the local bodies.' The vast powers of control and supervision exercised by the provincial government in India prior to the achievement of freedom were the natural outcome rather of distrust than of a conviction that it is only by developing to the utmost the local self-government institutions that the truest and fullest self-government can be developed. To some extent, as trustees of the general interest and in the interest of uniformity the State Governments should be entitled to a measure of controlling authority. But the powers of restriction or supersession should be used most sparingly; the loan of experienced officers may be made by the Government to local bodies, but the lent officers should not be placed, in a dominating position; the limitation on the borrowing powers, etc. should only operate so as to promote the habits of self-reliance and enterprise in a local body. A great defect of the legislative control over the local bodies by the State Government has been that every time a local body desires the slightest possible extension of its powers and functions, it has got to have the recourse to the State Legislature.

Local bodies are subject to control by the State legislature, the State judiciary and the State executive. All local bodies are organised in accordance with a statute or statutes enacted for the

<sup>1</sup> G. Prakash, *District Administration and Urban Local Bodies*, I. J. P. A., July-September 1966, 582-86.



purpose by the legislature concerned. These statutes determine their constitution and organisation, their powers and functions. They are not competent to do anything in excess of the powers specifically conferred upon them by the legislative enactments constituting them. Their powers are not inherent but only derivative. The legislative and judicial controls are occasional, control by the State executive and its agent is normal and is an almost everyday occurrence. It is also of a more comprehensive character.

It is the State executive that has the power to constitute an area into a municipality or a municipal corporation, a district board or a panchayat. It fixes the territorial limits of these authorities and can modify the limits from time to time. It can also abolish a local authority; and in the majority of cases it determines the strength of the membership of local body within the limits laid down in the statute. The division of a local area into wards, the determination of the number of seats to be allotted to each ward, the allocation of reserved seats if any and the rules according to which the electoral rolls should be prepared and the elections held are generally within its control. In some cases it can remove even elected Chairman and elected members of the local body. It has a general power (with few exceptions) to dissolve a local body and order fresh elections. It can supersede a local body for a certain period and reconstitute it after a certain interval administering the area in the mean while through a Special Officer appointed by itself.

The State Government is also empowered to cancel or suspend resolutions of a local authority; similar is the case with any order issued by it or any licence it might have granted. It can require a local authority to take action with reference to any matter within the jurisdiction of the local authority and if it fails to take action it can appoint some person to audit and meet all the expenses incurred from the funds of the local body. In exercise of this power it is competent to make rules for the transaction of business by municipal councils or other local authorities, for the appointment of committees, for the appointment, removal and punishment of the staff of local authorities, for fixing their salaries and conditions of service, for the grant of licences, for entering into contracts, for the enforcement of Town Planning Scheme and for every other purpose for which the local bodies are constituted. It has power to conduct enquiries, to call for reports, to carry on inspection and to decide disputes.

State Governments have extensive powers of control on financial matters. No local authority is permitted to raise a loan or borrow in any other way without the sanction of the government. In several States control is exercised over their powers of taxation. In Bombay, for instance, local bodies other than municipal corporations have no independent powers of taxation. They have to obtain the sanction of government before a tax is levied even though it may

be a tax which they are competent to levy under the statute constituting them.

'In India, the municipal structure is almost an integral part of the State structure. The constitutional location of 'Local government' in the State List coupled with the paternalistic tradition of Indian administration, has worked towards the integration of local government administration more and more with State administration. Besides, political forces, instead of helping to loosen the grip of State control, have served to encourage its further tightening. In the absence of an entrenched urban culture facilitative of an enduring psychic integration between the citizens and the city, municipal government in India has always remained at the remotest suburb of public mind. If the city government is in decline and the State takes it over, there is hardly any voice of concern or a ripple of protest.'

The municipal Acts in India abound in regulatory and punitive provisions which have helped the State administration to evolve a system of overlordship. The State Government can rescind municipal resolutions, remove members, and supersede or dissolve a municipality. Less drastic state powers include those relating to inspection, calling for information and reports, and giving of directions and conditional grants-in-aid. Wherever integrated and/or unified municipal services have been introduced, the State Governments have encroached upon municipal powers through control over personnel. The district administration headed by the District Officer still flourishes at the expense of local government and keeps a watch on the latter's performance.

In 1967, it was found that 18 out of 28 municipal corporations in India were superseded. In Rajasthan, only 7 out of a total of 145 municipal bodies were being run by elected councils, the rest were being administered by administrators appointed by the State Government. The Municipal Corporations of Lucknow and Agra were under supersession for over a decade. In Punjab, the Municipal Committee of Ludhiana had the same fate, and later Jullundur and some other municipalities were superseded. In many States a high degree of political stability, dominance of a single political party at both State and municipal levels and a relatively forward-looking State administration very much reduced State municipal conflict. But in the remaining States, an important reason for the frequent use of punitive powers lay in their political configuration whereby the party-in-power at the State level was very often not the ruling party at the municipal level.

'Centralization of powers in the hands of the State Governments and the consequent decline of urban local self-government will be the most significant development in the near future. Whatever changes will take place in the sphere of municipal government,

these will be under the burgeoning control of the State governments. Improvement in municipal finances through the gradual expansion of the grants system and the integration of city development plans with the State and national plans are distinct possibilities. As provincialisation of municipal services gets going, the municipal bodies will have more and more qualified staff which is bound to lead to improved performance of municipal duties and responsibilities. But municipal efficiency will be achieved at the cost of municipal self-government. By exercising control over the key municipal personnel, the State Governments will come to have an important say in the internal management of the urban local bodies. In the foreseeable future, the municipal bodies will be sought to be developed under the watchful eyes of the State Government as on-going concerns with qualified staff and moderately efficient administration. The 'service' aspect, as distinct from the 'self-government' aspect, is expected to get more and more prominence in the years to come.<sup>1</sup>

Regarding the extreme forms of control such as action on default, suspension and removal of members and dissolution and supersession of the councils, the Rafiq Zacharia Commission on Augmentation of Financial Resources of Urban Local Bodies (1963) felt that these should be applied rarely and as a last resort after all means of advice and persuasion have been exhausted. They must be treated as powers held in reserve for chastening the local administrations and not for putting an end to their existence. The Committee found that the dissolution and supersession of local bodies had been frequently resorted to by the State Government on grounds of maladministration, corruption, gross mismanagement of finances, party factions, etc. The Committee, however, were of the view that dissolution and supersession of local bodies were no satisfactory remedies for the maladies from which they suffered. It is a short-term palliative dealing with the symptoms rather than the disease itself.

The State governments can play their role effectively only if they have a proper machinery to supervise, advise and guide local authorities supported by a regional inspectorate. A well-trained and effective inspectorate is the characteristic feature of control over the local bodies in England, where there are inspectors of local bodies in the fields of education, highways, fire brigades and the like, establishing direct links between the local authorities and the departments of Central Government. The Inspection involves the principal that guidance and supervision should be based on the knowledge of local conditions. Contact through inspectors has the outstanding merit of flexibility and manifold adaptability. 'The inspector can see both sides of the case with sympathy and if he is properly selected, represent the situation of the one to the other

<sup>1</sup> M. Bhattacharya, *op. cit.*, 26-31.

and correct each other's impression of intentions and motives. This assists in getting things done with the maximum of persuasion, the reduction of coercion, the best adaptation of measure to purpose and the improvement of morale.<sup>1</sup>

More concretely, the following steps are suggested to make State control more purposive and result-oriented : (i) The State Government should introduce performance budgeting at least in the major municipal bodies where the urban problems are relatively more severe. Performance budgeting has the merit of concretising the 'input indicators' at the level of each local body. The State Government will then have to watch the performance in each sector of municipal administration and compare progress against the targets set in the budget. (ii) A set of 'output indicators' has to be developed by the State Government to find out the impact of municipal performance on the urban society and economy. These will be in the nature of urban social indicators showing at regular intervals the state of the urban areas in terms of social and economic conditions, health and physical development, literacy growth and environmental improvement. (iii) The State Government will have to help the municipal bodies, at least the major ones, to frame five-year municipal development plans, which will then be incorporated in the State five-year plans. This will provide a framework for the preparation of the annual performance budget of a municipality. (iv) Last, but not least, at the State level, a systematic management information system (MIS) has to be developed to methodically collect *relevant* information in order that the State Government can frame and revise sound policies in regard to municipal bodies, and intervene, whenever necessary, in the affairs of the municipal bodies in the interest of healthy growth of municipal government in the State.

'Control in this sense will not be looked at as obnoxious. The State Government will emerge in the process as a facilitator and not as a restricter of municipal activities. Within a national planning framework, negative controls of olden days have to give way to positive management control with adequate information and data storage at vantage points in State administration, and continuous feedback and evaluation of performance. Withdrawal of functions, supersession and setting of alternative organizations are no substitute for hard homework by the State house-keeping departments. If municipal institutions have to be retained and promoted at the grassroots level, State control has to change from restriction to facilitation.'<sup>2</sup>

<sup>1</sup> See M. Venkatarangaiya and M. Bhattacharya, *op. cit.*, 480-81.

<sup>2</sup> M. Bhattacharya, 'State Control over Municipal Bodies', *I. J. P. A.*, July-September 1976, 469-71.

## CHAPTER XII

# PANCHAYAT RAJ

### I. INTRODUCTION

The ancient India the villages were completely self-governing, as they were practically free from central control. The gramani (headman) and other village officials were appointed by the community and were accountable to them. But gradually they were brought under the control of the king. By the time of Manu, the village officials had become government servants, and the Local Government system had become subordinate to the Central Administration. During the rule of the Maurya Emperors, the process of centralisation was carried much further. During the centralised administration of Maurya Emperors, the village assembly lost much of its power and prestige. Some local matters, however, continued to be decided by this assembly. It was a popular body consisting of the elders of the village (gram-vriddhah). There was no fixed number of members, and the attendance varied according to the nature of the business that was to be transacted. The members were not elected, but chosen by a sort of natural selection. They were usually men who by their age, character, and attainments acquired the confidence of the villagers, and their opinions were supposed to represent the collective wisdom of the village. These village elders not only decided administrative matters, but formed a court of justice for the decision of small civil suits, such as the boundaries of lands, and for the trial of petty criminal cases like larceny and assault. They also looked after public property, e. g. that of temples and the interest of infants, and attended to the question of poor-relief.

In their corporate capacity the villagers constructed and maintained works of public utility, and undertook measures tending to the improvement of the village; and those who took the lead in such matters received honours and rewards from the King. The capital city and the larger towns had separate organisations of their own for purposes of local government. In the Rig-veda we find mention of the Purapati, or lord of the city. Manu also says: 'And in each town let him appoint one superintendent of all affairs (Sarvarthacintaka) elevated in rank, formidable, (resembling) a planet among

the stars.'<sup>1</sup>

Though the village was the basic unit of local self-government in ancient and medieval times, its importance was completely ignored in the scheme of local self-government organized by the British. It was the Royal Commission on Decentralisation (1909) that put forward a powerful plea for the resuscitation of the village and though immediate effect was not given to its recommendation on this subject, attempts were made from time to time to establish informal village authorities. The Royal Commission also recommended the devolution of more powers on taluk or sub-district board. On the whole, however, the Government outlook was conservative and even the few changes it recommended were not given effect to as the Government of India took a long time (1915) to express its views on the Commission's recommendations. By that time, the first world War had broken out and the Indian political scene had undergone a great change.

However, the Government of India proposed to direct attention to the development of the panchayat system in villages. It was recognised that the prospect of successfully developing panchayats must depend very largely on local conditions, and that the functions and powers to be allotted to them must vary accordingly; but where the system proved a success it was contemplated that they might be endowed with civil and criminal jurisdiction in petty cases, some administrative powers as regards sanitation and education, and permissive powers of imposing a local rate. It was hoped that, wherever possible, an effective beginning would be made.

The Government of India Resolution of 1918 was a corollary to the Montagu-Chemsford Report on constitutional reforms. It elaborated still further the principles enunciated in the Report. It did not leave the implementation of the new policy to the discretion of provincial governments, but insisted that 'substantial' advance should now be made on the lines laid down. It also recommended the widening of the base of village panchayats, so that they might become the natural expression of the corporate life of individual villages. As a statement of policy this resolution was of as much importance as that of Lord Ripon and it served as a guide to ministers who, under the scheme of dyarchy, came to be in charge of local administration.<sup>2</sup>

#### RURAL GOVERNMENT IN MADRAS

Consistent with Ripon's principle, the Madras Act V of 1884 introduced a three-tier system, with the union board at the bottom, the district board on top, and the taluk board in the middle. A

<sup>1</sup> P. N. Banerjee, *Public Administration in Ancient India*, 289-96.

<sup>2</sup> See M. Venkatarangaiya and M. Bhattacharya, *Local Government in India*, Select Readings, 153 and 170.

union consisted of a group of villages, subject to the control of a panchayat comprising specified number of members, of whom the village headman was to be one. It was clear that the rate-payers had at the commencement of the Act no voice in the administration of these boards. Even so, the Act constituted the District Fund and invested the district board with the power of taxation. It not only exercised general control over subordinate boards, but allotted funds to them, even for the discharge of duties resting on the district board itself. No board, however, could enforce its power of taxation except with the approval of the Executive Government.

Under the Local Boards Act of 1920 no official except the village headman could contest an election. The non-official presidents of all taluk boards were made ex-officio members of district boards, and nomination to the extent of not more than one-fourth of the total number was retained to secure the representation of the minorities and women. The remaining three-fourths of the members were elected. In 1930 nomination was abolished; in its place seats were reserved for such minority communities as Muslims, Indian Christians, Scheduled Castes, Europeans, Anglo-Indians and women. The members of taluk boards were all nominated until provision was made in 1909 for the election of one-third of their number, which increased to three-fourth under the Act of 1920, the remaining one fourth being nominated by the presidents of district board. The taluk boards were abolished in 1954. As for the village panchayats, Act of 1920 incorporated the recommendations of the Decentralisation Commission in favour of all panchayat members being elected. Each panchayat under the Act consisted of the village headman as an ex-officio member and others elected directly by the rate-payers, an arrangement which continued until the Madras Village Panchayats Act revised it in 1950.

Taluk board consisted of a president and the less than twelve members, while district board had a president and not less than twenty-four members. In both cases the president appointed was an official, the Sub-divisional officer for the former and the Collector for the latter, although the Act had in all cases provided for the election of presidents and vice-presidents in the same way as for the election of members. In spite of statutory provisions in favour of the elective principle, members of the union panchayats and the taluk boards were in the beginning nominated by the Executive Government. The system was introduced into the district boards only. But the elected members of the district boards were to be chosen from among the members of the taluk boards, who themselves were for a time nominated by the Government.

#### RURAL GOVERNMENT IN N.W.P.

In the North-Western Provinces local committees before 1871

were mere consultative bodies functioning, as in Bengal, under immediate executive control. Act XVIII of 1871 gave legal sanction to the existing practice and provided for the constitution of district boards without popular representation. This system continued until it was substituted by Act XIV of 1883. The new Act established a board in each district and a local board in each sub-division. Within its jurisdiction the latter acted as the agent of the former and exercised such authority as might be delegated to it. As in the case of Bombay, the Act altogether omitted to provide for the creation of union panchayats; but unlike Bombay it excluded municipalities from any association with local or district boards. In other respects, the constitution of these boards was more or less similar to that of Bengal. The United Provinces District Boards Act of 1922 was modelled on the U. P. Municipal Act of 1916. But while municipal boards acted as an advisory body working through an executive, the district boards were corporate units of direct administration. In its original form the Bill had made no provision for separate communal representation. To secure its passage against Muhammadan and official opposition the Minister for Local Self-Government had to introduce an amendment which provided separate representation to Muhammadans on the basis of 'weightage'.<sup>1</sup>

The plea for greater autonomy to rural local bodies received conceptual strength with the advent of Mahatma Gandhi on the national scene and his enunciation of the doctrine of national development through autonomous rural organizations, which he desired to model on the lines of panchayat system as it prevailed in ancient India. He said : 'My idea of village Swaraj is that it is a complete republic, independent of its neighbours for its own vital wants, and yet interdependent for many others in which dependence is a necessity. Thus, every village's first concern will be to grow its own food crops and cotton for its cloth. It should have a reserve for its cattle, recreation and playground for adults and children. Then if there is more land available, it will grow useful money crops, thus excluding ganja, tobacco, opium and the like. The village will maintain a village theatre, school and public hall. It will have its own water works ensuring clean water supply. This can be done through controlled wells or tanks. Education will be compulsory up to the final basic course. As far as possible every activity will be conducted on the co-operative basis. There will be no castes such as we have today with their graded untouchability. Non-violence with its technique of Satyagarha and non-cooperation will be the sanction of village community.'

In the First Five-Year Plan it was recommended that to enable Panchayats to play their part in organising village development programmes, legislation should confer on them certain functions

<sup>1</sup> B. B. Misra, *Administrative History of India*, 630.



to village production programmes and the development of village lands and resources. This proposal was further examined. The functions of village panchayats could be distinguished broadly between two groups, administrative and judicial. Administrative functions could be divided conveniently between (1) civic, (2) development, (3) land management, and (4) land reforms. The civic functions of panchayats are embodied in legislation in different States in more or less similar terms. They include such tasks as village watch and ward, construction, maintenance and lighting of village streets, etc.

The functions of village panchayats in relation to development may be set out as follows : (1) framing programmes of production in the village; (2) in association with co-operatives, framing budgets of requirements for supplies and finance for carrying out programmes; (3) acting as a channel through which an increasing proportion of government assistance reaches the village; (4) developing common lands such as waste lands, forests, abadi sites, tanks etc., including measures for soil conservation; (5) construction, repair and maintenance of common village buildings, public wells, tanks, roads, etc.; (6) organisation of mutual aid and joint effort in all activities; (7) promotion of co-operative societies; (8) organising voluntary labour for community works; (9) promoting small savings; and (10) improvement of livestock.

## II. DEMOCRATIC DECENTRALISATION AND PANCHAYAT RAJ SCHEME

### DEMOCRATIC DECENTRALISATION

The idea of 'Democratic Decentralization' was mooted in the report of the Balwant Rai Mehta Study Team. The essence of its proposals lay in the fact that it swept away the network of voluntary, bureaucratic and ad hoc agencies of rural development, which had dominated the earlier phase of the Community Development Programme and made a strong plea for the creation of statutory, elective and representative institution to take charge of the programme of rural development at the block level. This elected statutory body, designated as 'Panchayat samiti' by the Study Team, was visualized as an organ of local self-management in the sphere of planning and development. So it emphasized the need for decentralisation of decision-making powers, which had hitherto been vested in the State Government, to this body. The crucial change envisaged by the Study Team's proposal was the entrustment of executive powers to a statutory body consisting of elected non-official members in place of the permanent employees of various executive departments of the government. This change in the locus of authority necessitated a corresponding change in the approach towards supervision and

control.

Dealing with the subject of delegation of powers below the level of the State administration, the Study Team felt that democratic government operating over large areas through its executive machinery could not adequately appreciate local needs and local circumstances. It, therefore, recommended that there should be a devolution of powers and decentralisation of machinery and that such power be exercised and machinery controlled and directed by popular representatives of the local area. 'Admittedly one of the least successful aspects of CD and NES work is its attempt to evolve popular initiative. We have found that few of the local bodies at a higher level than the village panchayat have shown any enthusiasm or interest in this work and even the panchayats have not come into the field to any appreciable extent...so long as we do not discover or create a representative and democratic institution which will supply the local interest, supervision and care necessary to ensure that expenditure of money upon local objects conforms with the needs and wishes of the locality, invest it with adequate power and assign to it appropriate finances, we will never be able to evoke local interest and excite local initiative in the field of development.'

The Team also drew a distinction between delegation of power and decentralisation. In the former case the government does not divest itself of ultimate authority for the actions of the lower authorities to whom power is delegated. But decentralisation is that process whereby the government divests itself completely of certain duties and responsibilities and devolves them on some other authority. The Mehta Study Team recommended 'democratic decentralisation of development work, which was to cover agriculture, animal husbandry, co-operation, minor irrigation works, village industries, primary education, local communications, sanitation, health and medical relief, local amenities and similar subjects.' This embraces virtually all of the services of local government.

According to P. R. Dubhashi democratic decentralisation in simpler terms would be 'free popular management of local affairs.' Its essential elements would be : (a) existence of authorities at various levels each closer to the ultimate sovereign, viz., the people; (b) allocation of sphere of activities to these authorities; (c) democratic composition of these authorities; (d) democratic working of these authorities; and (e) autonomy to these authorities in their allotted sphere limited only by the supervision of democratic authorities at a higher level.

Under the scheme of democratic decentralisation, as recommended by the Study Team, the old district boards have been abolished and they have been replaced by a new authority at the district level. Under the newly established district authority there are (a) Panchayat Samitis at the block level and co-extensive with

development blocks; and (b) village panchayat for every village in the block, or, in appropriate cases, several villages might be joined into one panchayat. Consequently, there was to be a three-tier system of local government for the rural areas. It may also be noted here that in regard to the charge that decentralisation might lead to inefficiency the Committee felt that such inefficiency would be temporary. In the long run, decentralisation would assert itself and succeed better, specially in the field of local development and welfare. The Study Team noted that the lack of efficiency of many of the present rural self-governing bodies was due to too large jurisdiction, too few powers and too scanty finances accompanied by an absence of close relationship with the village panchayats and of wise guidance by government or by political parties.

Democratic decentralisation was intended to be an important medium for people's participation in the work of government at lower levels. It differs from administrative decentralisation, as it involves devolution of authority. 'Administrative Decentralisation' implies the right to the freedom of implementing a project which includes the necessary right to do associated planning from the operative standpoint. Democratic decentralisation, however, implies people's right to initiate their own projects for local well-being and the power to execute and operate them in an autonomous manner.... Again, the idea of democratic decentralisation is not to be confused with delegation or deconcentration. Delegation or deconcentration consists in the grant of authority from a superior to subordinate authority, to be enjoyed by him not in his own right but as a derived concession and that also to be exercised at the pleasure of the superior.<sup>1</sup>

The ingredients of the concept of democratic decentralisation are : '(1) As the word 'democratic' indicates, the object postulated here implies a larger and closer association of the people with their own government. (2) There is devolution or dispersion of authority from the higher levels of the government to the lower levels. (3) This dispersion of authority assumes the form of autonomy to the people at lower levels to take political decisions with regard to policy formulation and work programme, to devise ways and means, to execute it, to manage and control the finances required for it and ultimately to guide and control its administration. (4) The authority, thus, decentralised should be managed by the people directly or indirectly through their representatives and thus the institutional machinery of democratic decentralisation should necessarily be elective.'<sup>2</sup> Thus, panchayat raj institutions are neither exclusively 'political nurseries' nor mere 'extensions' of the State administrative

<sup>1</sup> Iqbal Narain, 'Democratic Decentralisation : The Idea, the Image and the Reality', *I. J. P. A.*, Vol. IX, No. 1, 10-11,

<sup>2</sup> *Ibid.*, 15,

apparatus at local levels. They were intended to be instruments of nation-building in the economic sphere.

#### PANCHAYAT RAJ SCHEME

The proposal for 'Democratic Decentralisation' in its institutional form has come to be known as Panchayat Raj. The idea has taken different institutional forms in the various States. Even the Study Team itself had envisaged the possibility of structural variations in the institutional framework of panchayat raj. The establishment of panchayat raj institutions only meant provision of a formal structure for the association of rural people with plans of local development. The uniqueness of panchayat raj institutions lies in their development orientation in the specific context of planned economic change as also in their treating the elected representatives of the people as motivating power and instrument behind this development. The establishment of panchayat raj institutions with the objectives of economic development and self-government at rural local levels is one of the most profound politico-economic innovations in the rural government of the country.

The term 'Panchayat Raj' refers to a three-tier structure of rural local self-government in each district. It calls for a transfer of responsibility for much of rural development administration to these local authorities. Under the new arrangement the old district boards were replaced by a new district authority, supplemented by other local authorities at the block and village levels. The general pattern outlined was a three-tiered system of rural self-government, the tiers linked by a system of indirect elections. On 12 January 1958, the National Development Council of the Government of India endorsed the proposals for democratic decentralisation. Each state was asked to evolve a system of Panchayat Raj to suit its own conditions. The following principles were emphasised :

1. There should be a three-tier structure of local self-governing bodies from village to district levels, with an organic link from the lower to the higher ones.
2. There should be a genuine transfer of power and responsibility to these bodies.
3. Adequate financial resources should be transferred to these bodies to enable them to discharge these responsibilities.
4. All development programmes at these levels should be channelled through these bodies.
5. The system evolved should be such as to facilitate further decentralisation of power and responsibility in the future.

'In striking manner, Panchayat Raj has swept India. As early as 1959, legislation began to be introduced in several states to give effect to the recommendations. By early 1962, Panchayat Raj was operating in Andhra Pradesh, Assam, Madras, Mysore, Orissa,

Punjab, Rajasthan and Uttar Pradesh. Bihar, Madhya Pradesh and Maharashtra had passed the necessary legislation; a Bill was being considered in the Gujarat Legislature; Jammu and Kashmir, Kerala and West Bengal were considering legislation. Each piece of legislation conforms generally to the five principles laid down in 1958 by the National Development Council. Beyond these principles, however, each one differs markedly in many important respects and it is impossible to synthesize them into a coherent pattern for descriptive purposes.<sup>1</sup>

The basic principles on which the scheme lays stress are :  
 (a) The motive force for improvement should come from the people themselves. Self-help is at the root of all reforms, the State assisting with supplies and services and credit. The vast unutilised energy lying dormant in the country side should be harnessed for constructive work, every family devoting its time not only for carrying out its own programmes but also for the benefit of the community.  
 (b) The co-operative principle should be applied in its infinitely varying forms for solving all problems of rural life. The establishment of democratic institutions at the District and Block levels and the role assigned to the Gram Sabha and the Village Panchayat constitute fundamental and far-reaching changes in the structure of District Administration and in the pattern of rural development. Their significance lies in the fact that, subject to guidance and supervision by the State Government, the responsibility for the implementation of rural development programmes will now belong to the Block Panchayat Samiti working with Panchayats in the village and the Zila Parishad at the District level. Representing, as it does, a distinct level of responsibility and functions within the general scheme of administration, Panchayat Raj comprehends both the democratic institutions and the extension services through which development programmes are executed.

Other important recommendations of the Team may be summarised here : As almost the entire development work of rural areas will be the charge of the Panchayat Samiti, we recommend that the following sources of income be assigned to them : (a) A statutory prescribed percentage of land revenue collected within the Block area in the anti-penultimate year; (b) Such cess on land revenue, water rate for certain minor irrigation work, etc. as is leviable under the various Acts but excluding special cases like sugarcane cess; (c) Tax on profession, trades, callings and employment, we would recommend that this should be levied not by the village Panchayat nor by the small municipality but by the Panchayat Samiti itself; (d) Surcharge on duty on the transfer of immovable property; (e) Rents and profits accruing from property, e.g. ferries, fisheries, etc. within its jurisdiction, where these ferries lie across

<sup>1</sup> D. C. Potter, *Government in Rural India*, 48,

roads constructed and maintained by Panchayat Samitis; (f) The net proceeds of tolls and leases on roads and bridges, etc. in the Panchayat Samitis; (g) Pilgrim tax; (h) Tax on entertainments, including amusements; (i) Primary education cess; (j) Proceeds from periodical fairs and markets bazars and hats other than those held more frequently than once a month whether located on private land or otherwise; (k) A share of the motor vehicles tax; (l) Voluntary public contributions; (m) Grants made by government.

The Panchayat Samiti will have two sets of officers, *i.e.*, those at the Block level and those at the village level. The former will include the chief officer or the executive officer and various technical officers in charge of agriculture, roads and buildings, irrigation, public health, veterinary, co-operation, social education, primary education, etc.; the chief officer will be statutorily vested with administrative powers, subject, of course, to necessary checks. These powers will be somewhat similar to those of the Chief executive officer or commissioner of a municipality. For improving the standards of administration in local bodies there is a very good case for separating, as far as possible, their purely executive functions from their deliberative or policy-making functions. The latter category of functions should appropriately be the sphere of the elected wing of the local bodies. Once policies and decisions have been adopted, however, their implementation and execution should be left to the principal executive officer who must be made primarily and directly responsible for this part of the work. As a necessary corollary to this principle, the more important executive posts in the local bodies should be centralised on a state-wise basis and should be made transferable.'

A certain amount of control will inevitably have to be retained by the Government, *e. g.*, the power of superseding a Panchayat Samiti in public interest. It may also be necessary that the Collector should be vested with certain powers to suspend a resolution of a Panchayat Samiti, when he apprehends a breach of the peace or where the action proposed to be taken by the Panchayat Samiti is *ultra vires* of the Constitution or contrary to the law of the land. The Panchayat Samiti will have an elected chairman. But during the first two years after its creation the Panchayat Samiti may have the sub-divisional officer, grant officer or revenue divisional officer as the chairman.

Together with the establishment of the Panchayat Samiti, we consider it necessary to prescribe its relations with the village Panchayat and to redefine the functions and resources of the latter. Apart from the organic link between the village panchayat and the Panchayat Samiti, it is necessary that a similar connection should exist between the Gram Sewak and the village panchayat. This can

be secured by making him the development secretary of the Gram Panchayat or, if there are more panchayats than one, of a committee of the village panchayats within the jurisdiction of each Gram Sewak. The committee, composed of the sarpanches and upsarpanches of each of the village panchayats, should co-ordinate the budgets and formulate and execute the plans of all the village panchayats in the circle. Of this circle committee the Gram Sewak should be the development secretary. He will thus ensure that his own activities and the programmes of the various village panchayats are in complete consonance.

In regard to the constitution of the Panchayat, we suggest that this should be purely on an elective basis, but that there may be a provision for the co-option of two women members and one member each from the Scheduled Castes and Scheduled Tribes in conditions similar to those prescribed for the Panchayat Samiti, we do not consider that members of any other special group need any special representation either by election or co-option.

To ensure the necessary co-ordination between the Panchayat Samiti, we suggest a Zila Parishad of which the members will be the member of the Parliament representing a part or whole of a District, whose constituencies lie within the District and District level officers of the medical, public health, agriculture, veterinary, engineering, education, backward classes welfare, public works and other development departments. The collector will be the chairman of this Parishad and one of his officers will be the Secretary. It will examine and approve the budgets of the Panchayat Samiti. Where funds are allotted by the Government for the District as a whole, their distribution between the various Blocks will be made by the Parishad; it will co-ordinate and consolidate the Block Plans, annual as well as quinquennial; where grants for special purposes are needed or demanded by Panchayat Samiti, these also will be consolidated and forwarded to the government by the Parishad. It will also generally supervise the activities of the Panchayat Samiti. It will replace the present District Planning Committees. It may be necessary to have standing committees of the Zila Parishad to ensure rapid disposal of work.

We do not contemplate that this Parishad will have executive functions; that way lies danger to the initiative and, therefore, the effectiveness of the Panchayat Samitis in their early years. Nor do we consider that the District Level Officers on the Panchayat Samiti should be members of the Parishad without the power to vote; that would be the surest insurance for indifference. The time is long past when we could think of the officers' interest in rural development as something different from or contrary to that of the non-officials.

Development cannot progress without responsibility and power.

Community development can be real only when the community understands its problems, realises its responsibilities, exercises the necessary powers through its chosen representatives and maintains a constant and intelligent vigilance on local administration. With these objectives, we recommend an early establishment of statutory elective local bodies and devolution to them of the necessary resources power and authority.

The Mehta Team observed : 'While the broad pattern and the fundamentals may be uniform, there should not be any rigidity in the pattern. In fact, the country is so large and the Panchayat Raj so complex a subject with far-reaching consequences, that there is fullest scope for laying out various patterns and alternatives. What is more important is the genuine transfer of power to the people. If this is ensured, form and pattern may necessarily vary according to conditions prevailing in different States.' The recommendations of the Central Council of Local Self-Government have formed the main basis of the policy of the Government of India in the matter of implementation of Panchayat Raj. There has been no insistence on a rigid pattern; it has been left to the States to work out a pattern suited to their requirements. The following fundamental and basic principles were emphasised :

(a) There should be a three-tier structure from the village to the district level, each tier linked to the other; (b) There should be adequate transfer of power and responsibilities to their bodies; (c) Keeping in view the transfer of power and responsibilities, adequate resources should be placed at their disposal; (d) All development programme at each level should be entrusted to these bodies; and (e) The system ultimately evolved should be such that further devolution of powers will be facilitated.

## A BRIEF SURVEY

### GRAM SABHA AND GRAM PANCHAYAT

The Gram Sabha comes closest to the team's concept of 'participating democracy' and constitutes the base of the Panchayat. The Gram Panchayat, which is the executive organ of the Sabha, is elected by the latter body. The size of the Panchayat varies between five and nine members in Punjab and between five and fifteen members in Tamil Nadu, and between sixteen and thirtyone members in Uttar Pradesh. The members of the Panchayat are elected, generally on the basis of territorial 'wards', by secret ballot in all States except Assam, Jammu and Kashmir and Uttar Pradesh. All States, except four have reserved a specified number of seats for women and also provide special representation for scheduled castes and tribes. In five States Sarpanches are elected directly by the Sabha; in others they are elected by members of the Panchayats



from amongst themselves.

The Panchayats, which number over 2,03,000 cover 94 per cent of the villages and 95 per cent of the rural population of India. Their functions have been divided into obligatory or discretionary. These usually include municipal administration, cultural, social and developmental activities, sanitation, conservancy, crop cutting experiments, promotion of cottage industries and the registration of births and deaths. The main emphasis is on 'development' activities, such as agriculture, animal husbandry, cooperation, minor irrigation, village industries, primary education, local communications, sanitation, health, and local amenities. But there is also generally an enabling provision permitting the Panchayats to function as an agent of the State Government or a higher level Panchayat Raj body for such functions as the latter may see fit to transfer to the Panchayat.

To enable them to discharge these functions, Panchayats have been authorised to tax their members, though there are variations regarding the types of taxes that the Panchayats can impose. They can generally impose taxes on property, animals, vehicles and professions and trades, as also a cess on land revenue or on the rent of agricultural land. They may also levy taxes on shops, realise octroi fees, and impose rates on water and electricity where these facilities are provided by the Panchayat. In Bihar and Gujarat, Panchayats are empowered to collect the land revenue and receive a commission on all collections. In all, except five States, Panchayats receive, as a grant from the State Government, a part of the land revenue collected from within their jurisdiction.

West Bengal alone has Anchal Panchayats, which have jurisdiction over a group of Gram Panchayats and are responsible for the local watch and ward, supervision over Nyaya (*i.e.* judicial) Panchayats and the management of the State Government's properties within its area. An account of these Panchayats and reasons for their creation have been given in section V.

#### THE PANCHAYAT SAMITI

Its jurisdiction is co-terminus with that of the development block, except in three States where the area of the Samiti coincides with that of the Taluk or Tehsil. In six States, the Sarpanches of the Gram Panchayats are ex-officio members of the Samiti. In some others representatives of the Samiti are elected directly by the Gram Sabhas or by the Sarpanches from amongst themselves. Generally, there are also provisions for the reservation of seats for representation of cooperatives and for co-option of members with special experience in specified fields. The members of the State legislature, whose constituencies fall within the area of the Samiti, are generally members of the Samiti; but in nine States such members have no

right to vote. Similarly, in Bihar, the local member of Parliament is a non-voting member of the Samiti.

In all States, the Samiti has been entrusted with functions falling generally within the category of 'development'. It has been vested with specific responsibility in the fields of primary education health and sanitation, and communications. It is also required to exercise some supervision over the Gram Panchayats within its jurisdiction. In three States, the Samiti can offer suggestions regarding the budget of the Gram Panchayat, while in four States the budget of the latter body must be approved by the Samiti. The Samiti draws its resources mainly from the funds allocated for the block budget and the funds earmarked for specific schemes which may be transferred for execution to the Samiti as agent of the State government. The Samiti generally receives, as a grant from the State Government, a share of the land revenue.

The Samiti functions through standing committees dealing with specific aspects of the Samiti's work, such as finance, production programmes, and social welfare. Implementation of the decisions of the Samiti and its committees is the responsibility of the Block Development Officer who functions as the chief executive officer of the Samiti, and the block staff. The only real exception to the above pattern is Maharashtra where the Samiti, in effect, merely advises the Zila Parishad on proposals for development work in the area of the Samiti and performs such other functions as the Parishad may wish to delegate to it.

#### ZILA PARISHAD

The third tier of the Panchayat Raj structure is the Zila Parishad, which exercises jurisdiction over the area of a district, except in two States. In one, it functions at the sub-divisional level, while in the other, twelve districts have been reallocated to form, for the purposes of the Zila Parishad only, twentyone 'development districts'. The Presidents of the Samitis within the area of the Parishad are ex-officio members of the Zila Parishad in all States. In some States, the Samitis elect an additional representative to the Parishad, there is also provision in three States for direct election, by all members of the Gram Sabhas to the Parishad. Provision also exists for the usual reservation of seats for the 'weaker sections' of society and for co-option of members possessing particular qualifications or experience which may be considered helpful to the Parishad in its work.

In Andhra Pradesh, Assam and Rajasthan, the members of the legislature are members of the Parishad, who may vote and may also hold office in the Parishad. In Bihar, Tamil Nadu, Madhya Pradesh, and Uttar Pradesh they may vote, but they are not allowed to do so in Gujarat, Orissa and Punjab. The collector is a member

of the Zila Parishad in Andhra Pradesh, Gujarat, Tamil Nadu, Karnataka, Orissa, Punjab and Rajasthan. He is ex-officio, Chairman of the Parishad in Tamil Nadu and Karnataka and of all the standing committees of the Parishad in Andhra Pradesh.

The functions of the Zila Parishad vary considerably from State to State. In several States, the Parishad has specific executive responsibilities with regard to such matters as the establishment and expansion of secondary education and of vocational and industrial schools. In Maharashtra the Parishad is the most important institution of the Panchayat Raj system and is vested with executive functions in various fields, including community development and advising the State Government in certain matters.

But in most of the remaining States, the Parishad has no specific executive functions and is essentially a body concerned with exercising supervisory and co-ordinating functions with reference to the working of the Panchayat Samitis within its jurisdiction. In some States, the Parishad is empowered to levy taxes or to enhance those already imposed by the Panchayat and Panchayat Samitis. However, the funds of the Parishad come mainly from the share of the land revenue and other local taxes assigned to the Parishad by the government. While the funds earmarked for specific schemes to be entrusted for implementation to the Samitis are included in the budget of the Parishad, the latter body has little to do except distribute them to the Samitis according to the allocations made by the State Government.<sup>1</sup>

Two other aspects of the scheme are : First, relationship between Democratic Decentralization, Local Self-Government and Community Development. From the scheme of democratic decentralisation given above it is clear that there is a very close relationship between democratic decentralization and the institutions of local self-government. It would be true to say that whereas democratic decentralization is a political ideal, local self-government is its institutional form. In a way it is a plea to further democratise local self-government, so that it may enjoy more authority and shoulder greater responsibility. Again, there is much in common between community development and local government. This is clearly established from the fact that Balwant Ray Mehta Team in studying the Community Development Programme came to emphasize the importance of local government and evolved a scheme of democratic decentralization.

'It remains to be further emphasised that under the policy of democratic decentralization both community development and local government are closely related to the growth of democracy. Community development is essentially a democratic process; it must

<sup>1</sup> See S. V. S. Juneja, *Panchayat Raj : A Survey*, *I. J. P. A.*, January-March 1973, 60-64.

have abiding faith in democracy. Both must rely on the capacity of the common man and aim at developing it to the maximum extent possible. Our policy of democratic decentralization is much more than merely one of building up a system of local government; it also aims at building up democracy from the grass roots, and thus by following the only method that can be followed for this purpose, viz. to give the masses of the people the opportunity and the institutions of their own for practising democracy in an organised and meaningful manner.'

Second, administrative problems of Democratic Decentralization. These problems, as analysed by Mr. B. Mukerji, may be summarised here : (1) whether and to what extent should the 'deliberative' and 'executive' functions be combined in the hands of the democratically elected agencies. If we confine the role of the elected members of these bodies to policy making and deliberation as in a parliamentary form of government, we would fail to achieve the important purpose of organising the community for effective action and getting from the people the maximum contribution in resources of manpower and material, ingenuity and enthusiasm, leadership and sacrifice, for the development of the country. (2) There is danger that the local authorities' own administrative machinery, as it is built up, will imbibe some of the weaknesses of the existing administration. This will have to be guarded against. And yet it will have to possess some of the qualities of the government administration, its impartiality, objectivity and non-political character. (3) There will also arise problems relating to recruitment, conditions of service training, personnel management, etc. (4) The role of the government functionaries will be affected. Some of them will gradually get converted into employees of the local authorities. The block organisation created for the execution of the Community Development Programme is the obvious instrument of administration to be given to the Panchayat Samiti. The Block Development Officer can best function as the Executive Officer of the Panchayat Samiti. (5) Then there will arise the important question of the proper relationship between the different levels of government — Panchayat, the Panchayat Samiti, the Zila Parishad, district administration and State Government.<sup>1</sup>

In the end, we give below some of the practical reasons in favour of the scheme as well as the grounds for opposition to it, as incorporated in the Report of the Committee on Democratic Decentralization, appointed by the Government of Maharashtra, 1961 : There is an important reason why democratic decentralization is a practical necessity. Prior to Independence, the Central

<sup>1</sup> B. Mukerji, *Administrative Problems of Democratic Decentralisation*, *I. J. P. A.*, Vol. VII, No. 3, 307.

and State Governments were content with maintenance of law and order, provision of such amenities to the people as could be met out of the revenues and limited economic development which would not prejudice imperial interests. After Independence, the emphasis naturally shifted from law and order to development and the Central and State Governments were called upon to direct all their energies to the basic problem of raising the standard of living of our people. They had, therefore, to plan and undertake execution of basic national schemes relating to steel production, power generation, production of heavy machinery, river valley projects, scientific and technical advancement, major irrigation projects, highways, intensive soil conservation, cattle or dairy development, etc. At the same time, on account of the pressure from rural population, Government had to implement a variety of local schemes. The existing local bodies to whom such schemes could have been entrusted were not competent to shoulder the responsibility due to lack of adequate finance, personnel and organisation. In the result, the State's energies were divided between major State schemes and minor local schemes and the latter received priority on considerations of expediency to the detriment of the former. It is, therefore, necessary that the State should divest itself of the responsibility for local activities which could be best left to the people's initiative and resources thereby enabling the State to concentrate on major schemes which it alone can undertake.

Hence the funds which the Central and State Governments can release, after fulfilling their obligations in respect of major projects essential to lay a proper foundation for the economic strength of the country, will always be limited and inadequate to satisfy the rising demands and aspirations of rural areas. There is obviously a limit to the departmental machinery being able to persuade the people to augment the resources to any appreciable extent. On the other hand, we believe that majority of the people will voluntarily offer themselves for greater taxation or levy of fees or make larger contributions in cash and kind if they see the benefits of their sacrifice actually accruing in their areas and further, only if they have full authority to determine the manner in which the proceeds of such sacrifice are utilized. We thus again come to the inescapable conclusion that the pattern of local administration should be such as could harness the available resources in a manner which will multiply their beneficial effects for people willingly sharing greater burden for their prosperity and well-being.

But the idea of democratic decentralisation is also opposed on some grounds. Some have expressed the view that the existing local institutions have hardly had a satisfactory record of achievement, that the efficient use of modern technology cannot be ensured through small administrative units and lastly, that the present society, with

its high degree of illiteracy, is ridden with caste and communal factions leaving little scope for emergence of healthy leadership. We are, however, unable to share their view. The existing local institutions are not in a position to show satisfactory record due to limitations under which they have been working. With regard to the possible difficulty in the efficient use of modern technology, it may be pointed out that a large number of schemes of local nature do not involve use of high technology. Further, this difficulty can be surmounted by providing adequate technical staff to the local bodies, making available to them technical advice of higher state officers and entrusting to them only such schemes as do not require higher technical skill. Illiteracy and factions are the cause as well as the effect of low economic development.

### III. PANCHAYAT RAJ IN U. P.

#### ZILA PARISHADS

These are autonomous bodies exercising jurisdiction in the entire rural areas (as defined in the U. P. Kshetra Samitis and Zila Parishads Act 1961) in the revenue districts of this State and are responsible for local self-government in the area. Prior to May 1958, there was a District Board for every revenue district except in the districts of Tehri Garhwal and Rampur, created by the merger of Indian states. Zila Parishad consists of (i) Pramukhs of all Kshetriya Samitis; (ii) members elected by each Samiti from amongst its members; (iii) presidents of all the Municipalities of the District; (iv) manager of the District Cooperative Bank or a representative of the U. P. Cooperative Bank; (v) 4 representatives of the Cooperative Societies; (vi) 1 representative of the Cane Development Union; (vii) 3 persons (appointed by the State Government) engaged in social, cultural, literary or trading activities; (viii) all such members of the Rajya Sabha and Legislative Council who have their residence in the district. The term of Zila Parishad is also 5 years. Every Parishad elects a President and a Vice President.

Its functions are : (i) classification of fairs and festivals into panchayat, panchayat samiti or parishad fairs and festivals; (ii) classification of roads on the same basis; (iii) acting as an agency of communication between the State Government and the panchayats and panchayat samitis; (iv) animal husbandry, village and cottage industries, education and cultural activities, public works, medical and public health service, planning and statistics, relief work. The activities of the Parishad extend to the whole district, whereas those of a Samiti are restricted to its own area. Main duty of the Parishad is to coordinate the activities of the Samitis in the various fields. Among the important officials of a Parishad, the following may be mentioned—chief executive officer, finance officer, health officer,

engineer, panchayat raj officer, irrigation officer, livestock officer, education officer, agriculture officer, and an officer of the cooperative department.

The Additional District Magistrate (Planning) or the District Planning Officer, as the case may be, is the Chief Executive Officer of the Parishad. Besides, certain other district level officers of the various development departments have been associated as officers of the Zila Parishad. While the Adhyaksh is empowered to send every year his assessment of the work and conduct of the Chief Executive Officer to the authority which is required to record entries about the work and conduct of the ADM (P) or the DPO; the Chief Executive Officer has the right to exercise similar power in respect of other government officers who are ex-officio officers of Zila Parishads. The Commissioner of the Division and the District Magistrate have powers to inspect the Parishad's records, or to call for any statement or other information or to record in writing any observations for the consideration of the parishad. In case a parishad defaults in the discharge of any of its duties, Government can rectify the default by assigning the work to the District Magistrate and get the cost debited to the Parishad's accounts. The Parishads possess powers to make bye-laws and regulations governing certain specified matters.

The budget of a Zila Parishad is prepared by its Executive Committee in consultation with its Finance Committee. After the Parishad has passed the budget so prepared, it is sent to the Commissioner of the Division, who may accept it is passed by the parishad as a whole or with such alterations in respect of that portion only which relates to expenditure out of Government grants towards planning and development activities, as he may think fit. In respect of the remaining portion, the Commissioner can only make his recommendations. A reference to the State Government is necessary where a Zila Parishad does not agree with the alterations made by the Commissioner when the decision of the Government is taken as final.

The main sources of their income are fees and taxes which they are authorised to levy under the provisions of the U. P. Kshetra Samitis and Zila Parishads Act 1961. The District Board's sources of income were the following : (1) Local Rate, (2) Circumstances and Property Tax. Local rate was assessed on land revenue and it constituted the main source of income of the Boards. After the abolition of Zamindari, the new land revenue includes it and in order to compensate the parishads for this loss, the amount of local rates, as assessed on or before 30 June 1949, is reimbursed to the Parishads by the Government in the shape of grant-in-aid. The prevailing Act of 1914 was repealed under the provisions of Section 274 of the U. P. Kshetra Samitis and Zila Parishads Act 1961, with effect from 5 May 1962. The Circumstances and Property Tax is not open for fresh

imposition now where it was not already in force before, due to prohibitory provisions of Article 277 of the Constitution of India. The U.P. Kshetra Samitis and Zila Parishads Act, however, authorises the Zila Parishads to continue to levy this tax in the districts where it was being levied earlier under the provisions of the U. P. District Boards Act, 1922.

Another source of income of the Parishads is the various recurring and non-recurring grants-in-aid which they receive from the State Government. Some of these grants are as follows : (1) Non-recurring grants from the U. P. Road Fund for construction, maintenance and repairs of their roads and bridges, grants for the maintainance of unmetalled roads, which were taken over by P. W. D. under the Post-war Road Reconstruction Programme in 1946, but were retransferred to the Parishad in 1952-53, and other non-recurring grants for repairs to roads, bridges and buildings damaged by excessive rains and floods. (2) Subsidy to meet the cost of dearness allowance paid to their employees, (3) Management charges to the extent of 15 per cent of income derived from certain hats, bazars and melas of ex-zamindars consequent upon the abolition of zamindari. (4) Non-recurring grants of certain Zila Parishads of hill districts, viz. Almora, Garhwal, Nainital and Dehradun to improve their finances. (5) Special grants to Zila Parishads of Rampur and Tehri Garhwal for carrying out LSG activities. (6) Grants-in-aid management of public ferries equivalent to the income derived from them.

The powers and functions of Zila Parishad include control and regulation of cattle markets and fairs, provision of veterinary facilities, assistance to Kshetra Samitis in promoting and developing village and cottage industries, propagation of family planning, regulation of offensive, dangerous or obnoxious trades, callings or practices, repair and maintenance of public roads, bridges and inspection houses, famine preventive works, establishment of poor houses orphanages etc. Preparation of District Plan-frame and keeping watch over its implementation, regulation of encamping grounds and where the Sarais Act 1867 is in force, of Sarais and paraos, including such other functions under the Act as the State Government may direct, the management of such public ferries as may be entrusted to its charge under the Northern India Ferries Act 1878, regulation of stage carriages and issue of licences therefore, the management of any public or private charities or trusts placed under it by the Government, and consolidation of births and deaths statistics in respect of rural area.

#### KSHETRIYA SAMITIS

Under the U. P. Kshetriya Samiti and Zila Parishad Act of 1961, Kshetriya Samitis at the block level and Zila Parishads, in place of the interim bodies at the district level, were established in



1963. A Kshetriya Samiti consists of (i) Chairman of every town area or notified area lying within the block; (ii) presidents of all village panchayats; (iii) 2 to 5 representatives of cooperative societies; (iv) all legislators of the State and members of Lok Sabha whose constituencies include the whole or part of the block area, (v) coopted members (a) 2 having interest in planning and development, (b) so many women members as are necessary to make their total number at least 5; and (c) so many members of the scheduled castes as are necessary to make their total number at least 8. Each Samiti elects its pramukh, a senior up-pramukh and a junior up-pramukh. Term of the Kshetriya Samiti is 5 years.

Their functions include : development of agriculture, promotion of cooperatives, construction and maintenance of minor irrigation schemes, public parks and tree-plantation, animal husbandry, cottage industries, medical and public health services, education and cultural activities, Harijan welfare, planning and statistics, supervision of Gaon Sabhas and public works. They conduct much of their work through committees, important of which are an executive committee, a production and a welfare committee. The Block Development Officer (BDO) is the chief executive officer of the Kshetriya Samiti. Every Samiti has its own fund and budget. Every Kshetriya Samiti has to function through a Karyakarini (Executive), an Utpadan Samiti (Production Committee), and Kalyan Samiti (Welfare Committee). The pramukh, the senior up-pramukh and the junior up-pramukh are ex-officio chairmen of these committees respectively. Since the Kshetriya Samiti now executes the development plan at the block level, the services of all officers and staff which were hitherto employed at development blocks have been placed at the disposal of the Kshetriya Samiti concerned.

#### PANCHAYATS

With the enactment of the U. P. Panchayat Raj Act, 1947, there came into existence in each village three types of bodies for the purpose of day-to-day administration. These are the Gaon Sabhas, Gaon Panchayats and Nayaya Panchayats, which are respectively the legislative, executive and judicial bodies. A Gaon Sabha consists of all adults ordinarily resident of area for which it is established. It is empowered to pass its own budget with the approval of the Prescribed Authority under the Act. viz. the District Panchayat Raj Officer. Some of the compulsory duties of a Gaon Sabha are the construction, repair, maintenance and lighting of public paths, maintenance of a birth and death register, arrangements for water supply, prevention of spread of epidemics, looking after public buildings etc. Among the optional duties of Gaon Sabha are the opening of libraries, dispensaries, planting of trees on public highways, etc.

A Gaon Panchayat is an elected body of the Gaon Sabha, whose primary duty is to implement the decisions of the Gaon Sabha. It consists of a Pradhan and 15 to 30 members elected by the Gaon Sabha, Election of members of Gaon Panchayat is held by show of hands, while that of Pradhan through secret ballot. The members elect an Up-pradhan every year from among themselves. The term of a Gaon Panchayat is five years and may be extended by the State Government upto ten years. The 'Gaon Sabha' meets twice a year after each summer and winter harvest. In the first general meeting it adopts the 'Budget' for the next year (the budget is prepared by the 'Panchayat') and in the second meeting it considers the various activities performed in the past. Any member can propose a resolution in such a meeting and all adults may participate in such meeting. This is an example of direct democracy. The Panchayat meets oftener; in its meetings  $\frac{1}{3}$  members form the quorum. The President and the Vice-President of the Panchayat as well as the members are chosen by the members of the Gaon Sabha *i. e.* all adults. The President and Vice-President can be removed from their office by a  $\frac{2}{3}$  vote of the Gaon Sabha. The President presides over the meetings of the Panchayat and looks after its activities of all sorts. Collection of rates levied by the Panchayat is his responsibility and all property belonging to the Panchayat is in his charge. Every Panchayat has a paid trained Secretary, who is incharge of office work. Their work is supervised by inspectors, who work under the District Panchayat Raj Officer. The Panchayats may make use of standing committees. Functions of the Panchayat are both obligatory and voluntary.

A Nyaya Panchayat decides petty civil revenue and criminal cases. Its members, known as 'Panch', are appointed by the District Magistrate from amongst the members of the Gaon Panchayats. The Panches of Nyaya Panchayats elect from among themselves a Sarpanch and Sahayak Sarpanch. The term of Panches expires with the expiry of the term of the Gaon Panchayats, but the Sarpanch and Sahayak Sarpanch continue in office till their respective successors are elected. These courts exercise civil jurisdiction in certain specified classes of cases up to a value of Rs. 500. They also exercise criminal jurisdiction in respect of certain specified offences of minor nature under the Indian Penal Code and minor Acts. A Nyaya Panchayat is not competent to inflict a substantive sentence of imprisonment, but it may impose fine not exceeding Rs. 100, without being competent to impose imprisonment in default of payment of fine. It can also bind over a person for keeping peace for a period not exceeding 15 days. There is no provision for an appeal against the decision of a Nyaya Panchayat, but a revision lies to the Munsif in civil cases and to the Sub-divisional Magistrate in criminal cases. The above authorities are also empowered to quash or modify the orders passed by Nyaya

Panchayats. Legal practitioners have been debarred from appearing before Nyaya Panchayats.

#### IV. PANCHAYAT RAJ IN RAJASTHAN

##### PANCHAYATS

The Government of Rajasthan was the first to accept the recommendations of the National Development Council in 1958. There are twenty six Zila Parishad areas in Rajasthan, one for each district. The State is divided into 232 Panchayat Samiti areas, each of which corresponds precisely to the area of each community development block. Each Panchayat Samiti area is divided into a number of Panchayat areas; there are 7395 Panchayats in Rajasthan. Each Panchayat area includes one or several villages. Panchayat Raj system in Rajasthan is based upon two main statutes, viz. the Rajasthan Panchayat Act, 1953 and the Rajasthan Panchayat Samitis and Zila Parishad Act, 1959.

Panchayat Raj in Rajasthan consists of the usual three-tier system with Panchayats, Panchayat Samitis and Zila Parishads constituted respectively at the village, block and district levels and functioning as parts of an inter-locked institutional structure. Each of the three tiers is a statutory and corporate body composed mainly of elected non-officials and having a set of statutorily demarcated jurisdiction, powers and functions. A Panchayat is an elective, statutory body representing about 1000-3000 persons in one or several villages. It consists of twelve to fifteen members; one Sarpanch (elected by the entire Panchayat electorate), eight to ten Panches (one elected from each ward), and three to four co-opted members (women, representative of scheduled castes and tribes). A Sarpanch besides possessing the qualifications of a Panch, must be able to read and write Hindi. The Panchayat appoints its own Secretary. The Vice-Chairman of the Panchayat (up-sarpanch) is, however, elected from amongst the panches by themselves. Besides the directly elected members, every panchayat can co-opt certain persons so that every panchayat may have two women members, two members belonging to scheduled castes and one member belonging to scheduled tribes.

The list of panchayat functions does not admit of any distinction between 'obligatory' and 'discretionary' functions and mentions the following spheres of work in which the panchayats may act : (1) sanitation and health, (2) public works, (3) education and culture, (4) self-defence and panchayat circle-defence, (5) administration, (6) welfare of the people, (7) agriculture and preservation of forests, (8) breeding and protecting cattle, and (9) village industries. Besides these functions, the 1959 Act also authorizes the panchayats to act as executive agencies for the panchayat samiti

schemes.

The main sources of panchayat income are : (i) per capita grant, (ii) taxes, (iii) financial assistance from the government and panchayat samitis, and (iv) non-tax revenue. The second source includes taxes on (a) building tax ; (b) entertainment tax ; (c) vehicles tax ; (d) pilgrimage tax ; and (e) water supply tax and levy fees for other services performed by it. As a third source, every panchayat receives substantial grants and grants-in-aid for specific schemes and projects from the panchayat samiti as well as directly from various departments of the Union and State Governments. In the last source may be included any other income, such as from cattle pounds, grazing lands, etc. The annual budget of the panchayat has to be prepared in accordance with a prescribed form by the Government and submitted to the panchayat samiti within prescribed time schedule. The Panchayat Samiti is empowered to approve it with or without modifications, the modifications, if any, being binding on the panchayats. The panchayats are authorised to appoint a whole-time secretary or share the services of a secretary on part-time basis, the sarpanch being the appointing authority for this purpose. The government, however, prescribes the salary scales and educational qualifications of panchayat secretaries.

#### PANCHAYAT SAMITI

It has a jurisdiction coterminus with each of the 232 'Blocks' into which the State had been divided for purposes of administration of the Community Development Programme. The members of the Panchayat Samiti are of three kinds : (i) ex-officio members, (ii) associate members, and (iii) co-opted members. A samiti consists, first and foremost, of all the Sarpanches elected to the Panchayats in the block area. These Sarpanch members co-opt additional members to ensure representation of certain interests (women, scheduled castes and tribes) as well as two persons 'whose experience in administration, public life or rural development would be of benefit to the Panchayat Samiti.' An average Panchayat Samiti consists of forty-two members, eight of whom are co-opted. These members elect a Pradhan (chairman) from among themselves. Members of the Rajasthan Legislative Assembly (MLAs) are Associate Members of the samiti(s) located in their constituency. The chief executive officer of the samiti is the Block Development Officer (who assumes the title of Vikas Adhikari) : the extension officer, gram sewaks and other supporting staff also function within the jurisdiction of the Panchayat Samiti. These block personnel are expected to carry out the policy of the government as before but with the difference that they are also asked to serve the Panchayat Samiti loyally.

The panchayat samiti has been recognized as the basic unit for planning and development and, accordingly, the task of execution

of the CD programme has been fully handed over to the panchayat samitis. Besides the CD Programme, the panchayat samitis have been entrusted with the execution of a number of 'transferred' schemes which were hitherto being directly executed by various government departments. The scope and content of the 'transferred scheme' broadly run parallel to the CD programme and supplements the various schemes under it, the single most significant exception being management of primary education. Besides these functions, the Union and State Governments have entrusted the execution of a number of schemes and projects to panchayats samitis on an ad hoc and/or agency basis.

The Panchayat Samitis have three general sources of revenue. Firstly, stage I and stage II Panchayat Samitis receive all the community development funds allocated to the blocks. The funds must be used almost entirely in accordance with the priorities specified in the schematic budgets. Secondly, a number of schemes formerly administered by development departments have been transferred to the Samitis, along with funds necessary to carry out the schemes. For example, the Education Department transferred many of their routine administrative functions in connection with primary education to the Samitis; accordingly the necessary funds, calculated on the basis of the number of primary schools in the Samiti area, are deposited annually to each Samiti's account to enable them to pay the primary school teachers and to maintain and expand facilities. Thirdly, Samitis may levy a tax on land, trades, professions, industries and fairs, a surcharge on the stamp duty and a primary education cess, but in fact, few Samitis have done so, and they, therefore, rely almost entirely on state and national government funds.

#### ZILA PARISHAD

A Zila Parishad is a statutory body at the district level. It consists of the following members: (1) The Pradhans of all the Samitis in the district, (2) Members of the Rajya Sabha residing in the district, (3) Members of the Lok Sabha elected from a constituency which forms part of or is included in the district, (4) MLAs elected from the district, (5) The President of the Central Co-operative Bank. These members co-opt additional members—women, representatives of scheduled castes and tribes and two 'experienced persons'. The number of members depends on the number of Samitis in the district and the number of MLAs and MPs elected from the district. An average Zila Parishad has twenty five members, nine of whom are Pradhans. The members elect a Pramukh (chairman) from among themselves. The Government of Rajasthan appoints a Secretary to each Zila Parishad.

The Collector is an 'ex-officio member of the Zila Parishad', which means that he attends its meetings but does not vote on its

resolutions. His role can be summarised as that of presiding from without over the decisions and activities of the Panchayat Samitis and the Zila Parishad in the district, with distinct powers of intervention to ensure that these new authorities do not deviate from their prescribed functions. Zila Parishads co-ordinate and consolidate the plans prepared by the Panchayat Samitis, supervise the activities of the Samitis advise and report to the State Government on various activities undertaken in the district in connection with the Five Year Plans. The Zila Parishad is wholly an advisory body with no executive authority. It has, however, been entrusted with the function of maintenance of overall supervision and coordination between the activities of the panchayats and panchayat samitis and maintaining liaison with the State Government in regard to planning and development in the district.

## V. PANCHAYAT RAJ IN SOME OTHER STATES

### TAMILNADU

The Panchayats in the State are of two types : (i) Town Panchayats covering a minimum population of five thousand and having an average annual income of at least ten thousand rupees. and (ii) village panchayats covering the rest of rural areas. As a result of this classification the town panchayats have been placed on a slightly higher footing than the village panchayats. They have executive officers appointed by the government, while the village panchayats do not have any such functionary and the president has to act as the executive authority. Further, the funds of the village panchayats have to be lodged in the panchayat union consolidated fund maintained by the panchayat union council, while the town panchayats can operate a separate treasury account in their own name. The town and village panchayats are, however, at par as far as structure, power and functions are concerned.

The functions of the panchayats are classified into 'obligatory', 'discretionary', 'transferred' and 'administrative'. Broadly speaking, the 'obligatory' functions relate to communications, lighting, sanitation and water supply ; the 'discretionary' functions cover beautification of the town or village, lighting, maintenance of places of public utility and provision of cultural, literary and recreational facilities ; while 'transferred' functions include all the schemes and projects entrusted by the panchayat union or State Government on agency basis. Finally, the 'administrative' functions deal with the management and maintenance of properties vested in the panchayats such as unreserved forests and unassessed waste land, such lands as grazing grounds and cattle-stands, water-works and roads, etc.

The main sources of finance are : (a) local revenue (ordinary)

including assigned revenues as well as resources raised by the Panchayats (and panchayat union councils) by way of taxes ; (b) government grants (statutory)—including special grants to cover expenses on : (i) elementary education, (ii) school meals programme, (iii) community development schemes, and (iv) maintenance of minor irrigation sources, maternity centres, and dispensaries ; and (c) local revenues (special) including all those resources raised by panchayats and panchayat union councils as part of their matching contribution for different schemes for which government gives statutory as well as non-statutory grants.

### *Panchayat Union Councils*

These are the intermediate tier in the panchayat raj system in the State. These are formed for each community development block and consist of four types of members as follows : (a) Ex-officio members : Presidents of all the town and village panchayats ; (b) Coopted members ; including women (upto a maximum of three) ; and scheduled castes and scheduled tribes (upto a maximum of three) ; (c) Associate members : The MLA, whose constituency covers the panchayat union and the MLCs, if any, residing in a panchayat union, who are entitled to take part in the proceedings of the council but cannot vote or contest election for the post of chairman or vice chairman ; and (d) one non-official member of each township committee in the panchayat union. The chairman of the panchayat union council is elected from amongst themselves by the members.

Their functions have been classified into the following categories : (1) Obligatory : Such as provision of communications, medical, relief, education, agriculture, industry, places of public utility, charitable institutions, house sites and cultural facilities. (2) Discretionary : The Act simply provides that a panchayat union council may endeavour to make provision for services meant for promotion of the safety, health, comfort and convenience of the general public. (3) Entrusted : The formulation and execution of the CD programme in the panchayat union has been entrusted to the Panchayat union council. (4) Transferred : A Panchayat union council may perform functions relating to maintenance and management of inams, irrigation works or any other institution transferred to it. (5) Administrative : The Panchayat union councils are empowered to manage, through the union commissioner, movable and immovable properties such as office, schools, dispensaries, choultries and endowments, etc., and recommend through the appointments committee, the appointment of teachers and other panchayat union employees and through the union chairman and commissioner, exercises control over such employees.

The District Development Council constitutes the apex tier of

panchayat raj system in the State. Each district development council has jurisdiction over the 'development' district, an entity different from the revenue district. It is purely an advisory body consisting of official as well as non-official members. The official members include the collector, who is ex-officio chairman of the council, and some gazetted officers who are connected with planning and execution of development schemes in the district. They are nominated by the Government. The non-official members include : (a) MPs and MLAs whose constituencies comprise part or whole of the development district and, in case of members of Rajya Sabha, those who reside therein ; (b) chairmen of all panchayat union councils ; (c) chairmen of all municipal councils ; and (d) presidents of central cooperative banks. The official members do not have the right to vote nor is their presence in a meeting taken into account for purposes of determining the quorum. There is no provision for the post of a vice-chairman in the district development council and, in the absence of the collector, the non-official member who is eldest of the two non-official chairmen of the standing committees of the district development council presides over the meetings. The district development council is a purely advisory and recommendatory body without any executive functions and powers and does not even possess the power to supervise or coordinate the activities and schemes of the panchayat union councils as its Rajasthan counterpart, the zila parishad, possesses in relation to panchayat samitis.<sup>1</sup>

#### ANDHRA PRADESH

Panchayat Raj bodies were set up in Andhra Pradesh on 1 November 1959 when 20 Zila Parishads one for each district were constituted. The Zila Parishad is headed by a non-official who is a Chairman of that body, while the Standing Committees (originally five but later made into seven), which deal with the various facets of development are presided over by the District Collector. Thus at the Zila Parishad level, the District Collector is actively involved in the process of development. The membership of the Zila Parishad is composed of presidents of panchayat samitis besides members of Legislature and Parliament drawn from that district. A few persons are co-opted by virtue of the specialised experience and interest in rural development. At the block level there is a panchayat samiti which is composed of the presidents of the gram panchayats in the block. The panchayat samitis are headed by non-official presidents who also preside over the meetings of the standing committees. Special co-option of members to represent women, scheduled castes/scheduled tribes is made at the panchayat samiti level. At the village level, gram panchayats have been set up which are headed by non-official elected presidents. At all the three tiers

<sup>1</sup> *Ibid.*, 32-38.



of panchayat raj, the Chief Executive Officers are Government officials, who have been deputed to work in those bodies. They are, however, subordinate to these institutions and are to carry out the resolutions of these bodies. At the State level, there is a State Chamber of Panchayat Raj composed of the various non-official connected with these bodies. There is also a Chamber of Chairmen of Zila Parishads which meets periodically to review the problems in the working of these institutions. The State Chamber of Panchayat Samitis and the Chairman of Zila Parishads are quasi-official organisations, but their views are often sought for and are given great weightage by the Government in taking policy decisions on matters relating to Panchayat Raj working.

The heart of Panchayat Raj institutions is the block level panchayat samiti which has to be inspected normally once a year by the Revenue Divisional Officer or the District Collector. The District Collector inspects roughly one third of the panchayat samitis in the district for which an elaborate questionnaire has been prepared by the State Level Panchayat Raj Department. This questionnaire provides information on all aspects of the working of the panchayats during the past year and indicates the manner in which the Panchayat Samiti has been working. In addition a State Level review of the work of each samiti is done once a quarter on the basis of detailed review furnished by the District Collectors.

Inspections of the Zila Parishad are conducted once a year by a member of the Board of Revenue. The work of the District Panchayat Officer and the Panchayat Administration of the District are also reviewed by a member of Board of Revenue, at the time of the inspection of the District Collector once every year. This, however, tends to be a somewhat formal affair largely concerned with such matters as whether inspections have been conducted with the prescribed periodity, whether audit objections have been replied to and whether panchayat dues have been collected. The Zila Parishad itself has little original jurisdiction except in the matter of secondary education. The work of the Zila Parishad is largely concerned with the allocation of Government grants to the various panchayat samitis which does not really require any close supervision.

Apart from inspections of the programme of work of the samitis, audit inspections are also made of these bodies. More important than the formal inspection and audit is the friendly guidance that is provided to the Panchayat Raj institutions. At the village level, the guidance is normally provided by the Extension Officer (Panchayats), who is an officer drawn from the Panchayat Department and is attached to the panchayat samitis. There has been some criticism about the role of the Extension Officer (Panchayats) in as much as he is statutory authority to inspect the Panchayats and is also subordinate to the panchayat samiti of which the Sarpanch is a

member. In the case of the Panchayat Samitis, the District Collector has a wide variety of powers and generally acts as a liaison between the Samitis and the Government. In view of the many powers which are vested in the Collector as Head of Revenue Department, Head of the police and the representative of the Government, the panchayat samitis have to frequently approach the Collector for a variety of matters in which his help and assistance would be invaluable. In this manner a fairly more personal relationship is built between the Collector and the non-officials of the panchayat samitis. The District Collector has the power to suspend resolutions, which in his opinion are likely to create disturbances of law and order and report the matter to the Government, which can itself cancel resolutions which are, in their opinion, in excess of the powers of a samiti or Zila Parishad.

At the level of the panchayat samiti the Block Development Officer is the Chief Executive Officer of the panchayat samitis. He has to implement the resolutions of the panchayat samitis, and to ensure that the various progress reports and other reports required by the Government are sent to the prescribed authority on time. The position of the Block Development Officer is somewhat anomalous, on the one hand he is responsible to the panchayat samiti for implementation on resolutions passed by that body and, on the other hand, he is also responsible to the District Collector for the observance of the various rules and regulations that have been laid down by the Government. At the Zila Parishad level, the Secretary, Zila Parishad is the Chief Executive Officer of the Zila Parishad. He is a person drawn normally from the Revenue Department though in recent years a few persons have been taken from the Panchayat Department. In a few cases, they are responsible to the Collector both by virtue of their position as Chairmen of the Standing Committees as well as Head of the Revenue and Panchayat Administration in the district. Besides the Secretary of the Zila Parishad, there is an Executive Engineer (drawn from the Public Works Department), who is incharge of the entire working programme in the district. Here again there is a possibility of conflict between the Executive Engineer and the Secretary of the Zila Parishad. There is also a Deputy Secretary incharge of Education, who is of the rank of the District Educational Officer and a Social Welfare Officer of the rank of Tahsildar. These officers are directly the employees of the Zila Parishad though deputed from Government departments and are under the administrative control of the chairman, Zila Parishad.<sup>1</sup>

<sup>1</sup> See Ram K. Vepa, Supervision and Control of Panchayat Raj Institutions, *Journal of the National Academy of Administration* (Mussorie) December 1965, 26-33,

## WEST BENGAL

Panchayat Raj was introduced in the State in two stages. The basic part was introduced in 1957 with the enactment of West Bengal Act of 1957, and the second stage was introduced after the enactment of West Bengal Zila Parishads Act, 1963. These two Acts constitute the legal basis of the Panchayat Raj in the State. These Acts have provided for a four tier panchayat system, a novelty and innovation in the whole of India. Starting from Gram Panchayat (at the village level), there is at the next higher level the Anchal Panchayat (combination of several gram panchayats), there is at the third tier the Anchalik Parishad (at the block level) and at the apex the Zila Parishad (at the District level).

The Gram Sabha is a general body and consists of all persons whose names are included in the electoral roll of the State Legislative Assembly for the time being in force pertaining to the area or population mentioned for a Gram Sabha in the Act; it roughly covers about 800 to 1000 population. Thus a Gram Sabha may cover a single village or two to three adjoining villages at the same time. Every Gram Sabha is required to hold one annual meeting and one half-yearly general meeting. The general body, *i. e.*, the Gram Sabha, has been empowered under the Act to supervise, to scrutinize and to control to some extent the activities of the Gram Panchayat as a whole. The holding of the annual and half-yearly meetings and the agenda to be placed in such meetings are mandatory on the part of the Gram Panchayat, the executive body of the Panchayat. The Act also states that either the Adhyaksha or the Upadhyaksha shall preside at such meetings. In their absence the Gram Sabha shall elect in the manner prescribed one of the members present at the meeting to preside.

There is an executive wing of this general body (Gram Sabha) which is known as Gram Panchayat. It is elected by the Gram Sabha members from amongst themselves. Its strength varies from 9 to 15. Apart from these elected members there is provision in the Act for nominated members. It is provided that persons possessing special qualifications, irrespective of the fact whether they are members of the Gram Sabha concerned or not may be nominated by the State Government as members of the Gram Panchayat. But two disabilities have been imposed upon them : (i) they shall not have the right to vote, and (ii) they are debarred from holding the office of Adhyaksha or Upadhyaksha. Further the number of such associates should not exceed one-third of the total number constituting the Gram Panchayat. The term of office of the members including that of the Adhyaksha and the Upadhyaksha has been fixed at four years. This term may be extended upto one year by the prescribed authority. At its first meeting the members of the Gram Panchayat elect from

amongst themselves the Adhyaksha and the Upadhyaksha of the panchayat. The nominated members cannot participate in such elections. Unlike some of the other States in India there is no provision in the West Bengal Panchayat Act, 1957 for reserving seats or associating women or persons belonging to Scheduled Castes in the Panchayat bodies. But in West Bengal Zila Parishads Act, 1963, such provision has been made both at the Anchalik Parishad (institution at the Block level) and at the Zila Parishad.

The Gram Panchayat has been empowered to undertake a long list of functions covering as many as 48 items. But excepting the obligatory functions (12 in number) the rest are either delegated or discretionary. Apart from these functions there are also the 'Agency functions.' On a perusal of these functions it will be observed that most of the 'obligatory functions' are civic functions whereas the 'other functions' and 'discretionary functions' are mainly concerned with development and rural reconstruction works. Some of the obligatory functions are : (a) sanitary, conservancy and drainage ; (b) Anti-epidemic measures; (c) Maintenance, repair and construction of public streets or places; (d) Registration of births and deaths ; (e) Organising voluntary labour, etc.; (f) Supply of drinking water; (g) Supply of local information to the higher authorities, when required; and (h) Vaccination and inoculation. The 'delegated and discretionary' functions include groups of authority which can be called : (1) Agricultural, (2) Economic, (3) Social and Public Health, and (4) Cultural.

The Gram Panchayat has no independent source of revenue. Not only that, the Act provides under Section 55, Sub-sec. 2 (d) that the Anchal Panchayat shall allot a sum to the Gram Panchayat under its jurisdiction taking into consideration : (a) Amount available for distribution; (b) Amount realized from each of the Gram Sabha within its jurisdiction as tax, fee or rate; and (c) Amounts required by the Gram Panchayats concerned according to the budget framed by them for carrying on their duties and functions.

The second higher tier in the West Bengal Panchayat administration is the provision of the 'Anchal Panchayat'. An anchal panchayat roughly covers about 7 to 10 village panchayats having 9 to 10 thousand population within it. Practically speaking it has replaced the old 'Union Board' under the '1919 Village Act'. But compared to Union Boards the Anchal Panchayats have a different constitution and larger scope of powers and functions. Upto 1964-65 2,924 Anchal Panchayat had been established in the 15 districts of the State (excluding Calcutta). For the Anchal Panchayats the system of election is indirect. Here the Gram Panchayat members constitute the Anchal Panchayat from amongst the Gram Sabha members. Every Anchal Panchayat consists of the following category of members : (1) Ex-officio, and (2) Elected : (a) The Adhyaksha of

all Gram Panchayats within the jurisdiction are ex-officio members of the Anchal Panchayat ; and (b) At least one member from each Gram Sabha is elected on the basis of one Anchal member for every five hundred members of the Gram Sabha.

The Anchal Panchayat is responsible for : (1) Control and administration of Anchal Panchayat Fund ; (2) Imposition, assessment and collection of the taxes, rates or fees leviable under this Act ; (3) Maintenance and control of Dafadars and Chowkidars ; (4) Constitution and maintenance of the Nyaya Panchayat ; and (5) Other duties assigned to it by the State Government. The Act also empowers Anchal Panchayats to constitute committees for facility of work. There is provision for a Secretary for each Anchal Panchayat. He functions as the Executive Officer of the Anchal Panchayat. The Secretary is required to frame the Budget, the annual estimates and the report of the Anchal Panchayat. Although his appointment, promotion, dismissal and other service conditions are determined by the State Government, he is under the general supervision of the Anchal Panchayat.

The Act has empowered the Anchals to impose the following taxes, rates or fees : (1) Anchal Panchayat imposes yearly a tax on lands and buildings to be paid by the owners or occupiers ; (2) a tax on professions, trades, callings and employment carried on or held within the local limits of its jurisdiction on the basis of the total income accrued from such professions, etc. subject to a maximum of two hundred and fifty rupees per annum in respect of any one person. It may also impose fees or rates, as the case may be : (1) on registration of vehicles ; (2) for plaints, petitions, etc. (3) for providing sanitary arrangements, etc. ; (4) water rate ; (5) light rate ; and (6) conservancy rate.

The Anchal Panchayat is a peculiar innovation of the West Bengal Panchayat System. No other State has evolved such a stage, neither did Balwant Ray Mehta Committee suggest such a tier. It has been justified on the ground that abolition of the Union Boards would have created a void which could hardly be replaced by any institution at the village level. Further, compared to other States rural people in West Bengal did not hitherto enjoy any comparable institution at the village level. As such it was thought that any drastic change at this initial stage might be harmful and might frustrate the very purpose for which these institutions were created. On the other hand, the creation of this additional tier between the 'block' and the 'village level' had been severely questioned by the critics regarding the genuineness of devolution of power and authority by the Government to the people. In a nut-shell, the functions of the Anchal Panchayat are rural police, rural finance and rural justice. Over and above, the Anchal Panchayats have an important say in the matter of Gram Panchayat budget. The funds of the

Gram Panchayats are distributed through the Anchali. It has, therefore, been suggested by some critics that, by and large, the leadership of the village has been invested in the Anchali than in the village Panchayat.

#### *Anchalik Parishad*

'Anchalik Parishad' is the 'third executive tier' of the West Bengal Panchayat Raj System. Comprising elective-cum-ex officio members this new body located at the Block level is expected to lead and guide the lower Panchayat bodies. An Anchalik Parishad consists of the following category of members : (1) Ex-officio, (2) Elected, (3) Appointed, (4) Co-opted, and (5) Associate. The ex-officio members include all the Pradhans of the Anchali Panchayats and the presidents of the Union Boards, if any, located in the Block. The elected category includes the members of the Lok Sabha and the State Legislative Assembly elected from any constituency comprising the Block and also members of the Rajya Sabha and the State legislative Council having a place of residence in the Block. The 'appointed' category includes one Adhyaksha from the territorial limits of each Anchali Panchayat elected by the Adhyaksha of that area from among themselves. It also includes 4 members appointed by the State Government of whom two have to be women and two from the backward community. The members of the Parishad co-opt two persons who have experience or knowledge in social and rural development work and have residence in the block. The Block Development Officer is an Associate member. All members of the above category hold office for a period of four years. A President and Vice-President are elected by the members of the Parishad from among themselves. An Associate member cannot be a candidate in such election.

An Anchalik Parishad has powers to undertake schemes or adopt measures relating to : (a) Development of agriculture, livestock, cottage industry, cooperative movement, irrigation, public health and sanitation, primary or adult education, establishment of dispensaries, etc. ; (b) Management of public utility concerns ; (c) Making grants-in-aid to public organisation within the Block and also to Zila Parishad or Anchali Panchayat ; (d) Contribution with the approval of the State Government towards cost of water supply or anti-epidemic measures undertaken by a municipality ; (e) Adoption of measures for the relief of distress ; and (f) Co-ordination and integration of the development plans and schemes prepared by the Anchali Panchayats.

#### *Zila Parishad*

It consists of 4 categories of members (a) Ex-officio, (b) Elected, (c) Appointed, and (d) Associate. The ex-officio members are :

(i) all Presidents of the Anchalik Parishads, (ii) all members of the Lok Sabha and the State Legislative Assembly who have been elected from any constituency in the district, (iii) the members of the Rajya Sabha and those of the State Legislative Council (not being a Minister) who have a place of residence in the district, and (iv) the President of the District School Board. From each sub-division of the district Gram Panchayat Adhyakshas elect two adhyakashas from among themselves. A municipal Chairman or a Mayor in the district is appointed by the State Government. Two women having a place of residence in the district are also be appointed by the State Government. The Sub-divisional Magistrate of the District and District Panchayat Officer are associate members.

The members of the Parishad elect from among themselves (excluding the appointed member and the President of the School Board) a Chairman and Vice-Chairman. The Chairman, the Vice-Chairman and other members of the Parishad hold office for a period of four years. The Act provides that the Chairman shall : (a) have full access to all records ; (b) have general responsibility for the financial and executive administration ; (c) exercise administrative supervision and control over the Executive Officer and the Secretary ; and (d) exercise or perform such work as may be specially assigned by the Zila Parishad or the State Government. The Vice-Chairman is expected to perform those duties which are delegated to him by the Chairman from time to time in writing. He also performs all duties of the Chairman in his absence.

The functions and duties of the Zila Parishad range over a wide field of subjects relating to public utility, welfare and development of the district. They may be grouped under the following heads : (1) Undertaking schemes or adopting measures (including financial assistance) relating to livestock, co-operation, water supply, irrigation, public health, education, communications and other objects of general public utility ; (2) Management of public utility concerns ; (3) To provide grants-in-aid or other contributions to public welfare institutions ; (4) To acquire and maintain village hats and markets ; (5) To provide grants to the Anchalik Parishads ; (6) To co-ordinate development plans prepared by the Anchalik Parishads and also to examine and sanction the budget estimates, etc. ; (7) To adopt measures for the relief of the distress ; and (8) Advisory power to State Government in regard to development of the district.

The Zila Parishad exercises general powers of supervision over Anchalik Parishads, Anchal Panchayats and Gram Panchayats in the District. Further, it is the duty of these authorities to give effect to any directions of the Zila Parishads on matters of policy and administration. An analysis of the powers, duties and functions of the Zila Parishads of West Bengal shows that they have under the Act 'four-fold' role to perform. These are : (1) Undertaking

schemes or measures by themselves relating to district development ; (2) Co-ordinating and integrating development plans prepared by the Anchalik Parishads ; (3) Exercising supervisory functions over the lower panchayat bodies, including the Anchalik Parishads ; and (4) Serving as adviser to the State Government in regard to development of the District.

The Act of 1963 provides for the appointment of Standing Committees by the Zila Parishad. Ordinarily there are the following seven types of 'Standing Committees' in a Zila Parishad : (1) Finance and Establishment Committee, (2) Public Health Committee, (3) Public Works Committee, (4) Agriculture and Irrigation Committee, (5) Public and Social Welfare Committee, (6) Industry and Co-operation Committee, and (7) Primary Education Committee. Besides these seven, other committee or committees can also be constituted with the approval or direction of the State Government. It is provided that no person excepting the Chairman or the Vice-Chairman can be a member of more than two standing committees.

Under the 1963 Act the Zila Parishad has the following sources of income : (a) Taxes, (b) Non-tax revenue, (c) Other sources, and (d) Grants and Contributions. Under 'Taxes' are included all proceeds of road cess levied in the district. Under non-tax revenue are included : receipts on accounts of tolls, rates, fees levied by the Zila Parishad, and fines and penalties imposed and realized under the provisions of the Act. Under other sources are included, contribution and grants, if any, from the Anchalik Parishad, income from remunerative schemes, income from trusts and endowments and loans from the State Government.

Under the aforesaid Act, the Anchalik Parishad has the following sources of income :

(a) Grants and Contributions : These may be (i) contributions and grants made by the Central or State Government or the Zila Parishad ; and (ii) Loans, if any, granted by the Government or raised by the Anchalik Parishad.

(b) Non-Tax Revenue : All receipts on accounts of tolls, rates and fees are levied by the Parishad. It is also provided that the Anchalik Parishad may levy the following fees and rates : (i) Fees on the registration of vehicles ; (ii) A fee for providing sanitary arrangement at public places or fairs and melas ; (iii) A fee for license at hat or market ; and (iv) Water and light rate-provided arrangement for supply of water and street lighting is being made by the Anchalik Parishad within its jurisdiction.

(c) Other Sources : This category includes all (i) those 'receipts' in connection with public institutions, like schools, hospitals, etc., vested in the Parishad and such sums received as 'gifts' and 'contributions' from any trusts or endowment made in favour of the Parishad, and (ii) fines or penalties realized under the provisions of



the Act.<sup>1</sup>

## VI. SOME IMPORTANT REPORTS AND OBSERVATIONS

### 1. SANTHANAM COMMITTEE ON PANCHAYAT RAJ ELECTIONS

The Committee was set up by the Union Ministry of Community Development and Cooperation in February 1964, with K. Santhanam as Chairman. By one of the terms of reference it was asked to make recommendations as to 'whether and to what extent political parties should participate in Panchayat Raj elections.' This is certainly one of the most controversial issues with which the committee had to deal. There are two sharply opposed schools of opinion on this matter. The Sarvodaya school, which includes workers of eminence like Jayaprakash Narain, is opposed altogether to political parties. They would like to rebuild Indian democracy on the basis of the Gram Samaj at the bottom and upon tiers at the Samiti, District, State and all-India levels, each level being constituted by indirect elections from the lower tier. They believe that the principle of consensus, if not unanimity, should prevail as all levels of administration and all the evils of electioneering and party politics which they consider to be inescapable from any system of parliamentary democracy, will be eliminated. No one can deny that this line of reasoning has a fine moral appeal. But supporters of parliamentary democracy reject this view on the ground that it is visionary and will lead to some form of totalitarianism. They feel that parliamentary democracy based on organised political parties and direct elections is the only and certain means of effective democratic government.

We may frankly rule out any idea of putting any kind of legal ban on the political parties against trying to influence the Panchayat elections. It will be almost impossible to define what amounts to party interference or influence. Besides, so long as these Panchayat Raj institutions have any real power and wield any influence among the people by the exercise of such power, there is bound to be a struggle among the political parties, directly or indirectly, to put their own men in positions of power in these bodies.

The use of party symbols in Panchayat elections is not permitted in any State except in Kerala and even there, such symbols have not, in fact, been issued so far. We consider that this is a salutary provision and has enabled the villagers to choose their members with comparative freedom. While political party influences cannot be legally banned, it is, in our view, wrong and unnecessary to encourage their entry into the village by the provision of party recognition in any way and by allowing the use of party symbols. We are also of the view that no representations should be entertained from any

<sup>1</sup> See S. K. Mukherjee, Some Aspects of the Panchayat system in West Bengal, *J. J. P. A.*, April-June 1967, 316-34.

political parties as such on any matter concerning Panchayat Raj institutions or elections to them. We, therefore, recommend : (i) There should be no legal provision prohibiting political parties from influencing Panchayat Raj elections. (ii) No political party symbols should be issued in any elections to Panchayat Raj institutions. (iii) No representations from political parties should be entertained in relation to Panchayat Raj institutions. (iv) Official recognition should not be accorded to political party groupings among members of Panchayat Raj bodies.

We give here the views of two very competent writers on the role of politicians and the evil effects of political interference in the administration of Panchayat Raj. First, with the establishment of Panchayat Raj, the State level politicians particularly ministers, were quick to realise the importance of these institutions as vote banks at the grass-roots level. Thus there started a process which, beginning with the cultivation of influence zones on the part of the State level politicians, ended up in the creation of definite pockets of their influence which would cover several Panchayat Raj structures in their sweep. With that there percolated not only State level politics but also its factional labels on the Panchayat Raj structure. And thus the impact of politics on Panchayat Raj administration, which was just tangential and remote in the beginning, became both direct and close through the three tier elections to the Panchayat Raj institutions.

The major consequential trends that have emerged on this score are : (1) The State level supervision and control gets weakened. The Pradhans with strong links and pulls with State level politicians can manage to evade even enquiries into their misdeeds, let alone the question of punishment. (2) The State level supervision and control is also used as a vehicle of political suppression, harassment and discrimination in regard to Panchayat Raj non-officials belonging to the opposite faction in the ruling party or to the opposition parties. (3) The administration at the block level gets demoralized. They are always afraid of the harassment that the Panchayati Raj leaders can cause to them with the help of their political allies among the State level politicians. One of the most common phenomena is the transfer of the officials under political pressure.<sup>1</sup>

Second, The introduction of Panchayat Raj rationalized the democratic administrative structure in our country by creating democratic layers parallel to the administrative layers below the level of the State. These democratic bodies at the taluka and district levels are in most cases in the hands of the ruling political party at the State level. Naturally, the non-official leaders in these bodies have close linkage with the state level ministers and this linkage sometimes, though not always, puts the officials like the Chief Executive

<sup>1</sup> Iqbal Narain, *Administrative Challenge to Panchayati Raj*, *I. J. P. A.*, July-September 1966, 114-15.

Officer at the Zila Parishad level or the BDO at the taluka level in a most precarious position. 'It is no wonder that the executive officers of local bodies, who in the majority of cases belong to a lower cadre of administrative service, succumb to the elected Chairman. Sometimes the linkages are so strong that the BDO cannot take any disciplinary action against the erring panchayats.'

These linkages are sought both by the state level politicians and the local level leaders. 'The state level politicians are keen on building up 'influence zones' in rural areas, recognizing that panchayat raj institutions would serve as vote banks in the future.' Although the problem of political interference is not new yet the effects of political interference seem to increase as one moves down the structure of governmental arrangement. 'It is in the districts that one observes the most unlovely features of this new ecology of Indian administration. The strained relations between the officials and the elected members in Panchayati Raj are now a common feature of district administration all over the country.' This tendency of 'interfering through political linkage' seems to be a major factor which affects the administrative autonomy adversely and also hurts the feelings of the officials.<sup>1</sup>

## 2. SANTHANAM COMMITTEE ON SUPERVISION AND CONTROL OVER PANCHAYAT RAJ INSTITUTIONS

It recommended : (i) At the District level a District Panchayat Commissioner be appointed for six years in whom all the powers of guidance, inspection, supervision and control over the Panchayat Raj institutions will be concentrated. He will do this work in a semi-judicial capacity and will be assisted by the District Panchayat Officers and Panchayat supervisors who will be placed under him. (ii) In the alternative, the District Collector may be entrusted with this work, provided he is kept at this post for not less than 4 years, does this work in a semi-judicial capacity and is designated as District Panchayat Commissioner functioning through District Panchayat Officers and Panchayat Supervisors. (iii) At the State level, a Panchayat Raj Board on the lines of the Board of Revenue may be set up. The Board would prepare an annual Report on the working of Panchayat Raj in the State and submit it to the State Government. The State Government shall place the Report before the State Legislature.

## SUGGESTIONS

As far as the basis of the pattern of supervision and control over panchayat raj institutions is concerned, the relevant panchayat raj statutes in various states contain a number of mandatory as well

<sup>1</sup> S. N. Puranik, *Administration and Politics in the context of Panchayat Raj*, *I. J. P. A.*, Jan.-March 1974, 114-15,

as permissive provisions and clauses which provide the legal framework of supervision and control. While the mandatory provisions explicitly lay down the skeletal form of the network of controls, the 'permissive' or 'enabling' provisions prescribe the procedure and authority for supplementing the bare provisions of the Acts by authorising various agencies to frame the necessary rules and regulations for implementing the mandatory statutory provisions.

The term 'Institutional' control and supervision is used to connote and cover all those statutory provisions which empower some specific agency (usually the 'Government' or 'Collector') to regulate the formation and constitution of these institutions and ensure strict and continuous control over the very existence of an institution. The institutional control exercised by the State Government and its functionaries over the panchayat raj system comprises control over (a) area and jurisdiction ; (b) strength, composition and mode of election ; (c) functional schedule ; (d) strength, salary and service conflicts ; (f) records, papers and properties of the panchayat raj institutions. One of the basic form of the institutional control in any organisation is the control over its permanent official wing.

Administrative control over panchayat raj institutions includes both control over 'policy' and 'administration'. The panchayat raj statutes in some states contain mandatory as well as permissive provisions in regard to a net-work of controls designed to prevent the panchayat raj institution from putting into effect certain type of decisions and, in extreme cases, enabling the controlling agency to do away altogether with an obstinate or obdurate panchayat raj institution by dissolving it as a collective unit or removing the specific members whose actions are not in conformity with the goals, purposes and norms of panchayat raj. In all the three States administrative control over panchayat raj institution is vested in the State Government but various government functionaries at the lower levels are also associated with the exercise of these powers. Administrative control over panchayat raj institutions is primarily directed against the non-official members of these institutions. The following methods are commonly found in all the panchayat raj statutes : (1) supersession ; (2) dissolution ; (3) cancellation or suspension of resolutions ; (4) removal of office-bearers and members ; (5) enforcement of no-confidence motions ; (6) issuance of general directives ; (7) prescription of forms, formalities and procedural norms ; (8) compulsive performance of duties in case of persistent default ; and (9) inspections and enquiries.<sup>1</sup>

The financial control and supervision over panchayat raj institutions in most of the states extend to income as well as expenditure, the chief media for this purpose being : (1) regulations in

<sup>1</sup> Iqbal Narain et al, *op. cit.*, 79.

regard to income from various sources including taxes ; (2) regulations concerning banking arrangements for panchayat raj funds including control over deposits and withdrawals ; (3) prescription of budgetary principles and procedures ; (4) determination of the modes and procedures for maintenance of accounts ; and (5) audit.

The first Local Self-Government Ministers' Conference held in 1948 emphasized that in view of indentity of interests at all levels of government since independence, the Government while giving every encouragement and guidance to the local bodies for proper development should exercise the necessary control over the organisation and administration of such national services as education, health, etc. It is admitted by all that the healthy development of village panchayats will depend very largely on the efficiency of the machinery of inspection, the guidance and encouragement that they receive and the timely correction of their errors. Therefore, the State Governments should set up a suitable machinery for the discharge of these functions. Its inspectors should be trained and efficient and they should be able to give the necessary advice and assistance to the panchayats within their jurisdiction. There should also be annual audit of the accounts of the panchayats. The State Government should take early and effective action on the basis of the reports of inspectors, who should, however, not be allowed powers of interference.

### 3. REPORT OF THE STUDY TEAMS ON THE POSITION OF GRAM AND NYAYA PANCHAYATS IN PANCHAYAT RAJ MOVEMENT

*Position of Gram Panchayats :* The study Team, appointed to study the working of the Gram Sabha, Gram Panchayat and Panchayat Samiti, under the chairmanship of R. R. Diwaker, submitted its report to the Government of India. The important recommendations, among others, are as follows :

(i) The Gram Sabha should be statutorily recognised in each state and its meetings should be held more frequently, *i.e.* at least once in each quarter as against the existing practice of twice a year. The Gram Sabha should review the working of the Panchayat in the matters which now fall within the jurisdiction of functions of the Panchayat.

(ii) In order to activate the Gram Sabha, meetings should be held in rotation in each of the constituent villages.

(iii) Having regard to the considerations of viability and community characteristics, population of about 400 to 500 should have a Gram Sabha.

(iv) Decision-making in Gram Sabha meeting should, as far as possible, be achieved through arriving at consensus. If, however, a decision has to be reached through voting, two-third majority of the members present should be insisted upon.

(v) To realise the objective of participating democracy in full, the Panchayat should set up a number of functional committees including members of the Gram Sabha on such committees and with a member of each of the Panchayat as the convenor of each such committees. Each of these functional committees should be entrusted with the management of one or other of the developmental subjects of the village. The functions of these committees should be mainly advisory, their suggestions and advice being forwarded to the Panchayat for necessary action and for being discussed in the Gram Sabha as well.

(vi) The Gram Sabha should be fully associated with the implementation of village production plans.

(vii) In order to secure participation of the women members of the Gram Sabha (a) two women members should be co-opted on the village Panchayat (in case no women members were duly elected), and (b) the issues concerning the women-folk of the village may be discussed in a Mahila Mandal meeting preceding the Gram Sabha meeting, so that the women members could put forward their views in a more effective manner.<sup>1</sup>

*Position of Nyaya Panchayats.* The Study Team recommended a system of indirect elections in order to eliminate groups, factions, rivalries, etc., as far as possible. It felt that the appropriate authority should be empowered to remove any member if, by reason of his active association with any communal, lingual, political or other group, his continuance in the Nyaya Panchayat is not in the public interest. In regard to jurisdiction, the Team recommended that civil suits of certain simple types may be entertained by Nyaya Panchayats but the jurisdiction may be limited to Rs. 250. If the parties agree, civil suits of the same description not exceeding Rs. 500 in value may be referred to them. As regards criminal jurisdiction, the Study Team did not recommend any power to be vested in Nyaya Panchayats to impose sentences of imprisonment. Nor did it recommend any power to issue prohibitory orders or to bind people for good behaviour. For the time being, their power should be limited to a fine of Rs. 50. Whatever jurisdiction is vested in Nyaya Panchayats, it should be exclusive. The judicial power should not be vested in executive panchayats, but should be vested in a separate body, which may be established for a group of gram panchayat areas.

The Team recommended the association of women in the trial of cases by Nyaya Panchayat. Provision should be made for co-option of at least two women, if, in the ordinary process of election, they do not find a place therein. The co-option of scheduled castes, so long as they require special protection under the constitution, has

<sup>1</sup> See I. I. P. A., *Newsletter*, September 1963.

also been emphasised. With regard to the training to be undertaken by Nyaya Panchayats, the Study Team suggests the administrative and judicial supervision which should be exercised over their functioning and the kind of assistance which should be made available to them both secretarial and otherwise. The Study Team gave special importance to conciliation as a method of approach to the solution of disputes coming before Nyaya Panchayats. For the time being, the qualifications of Nyaya Panches may be fixed low keeping in view the conditions generally obtaining in India.<sup>1</sup>

#### 4. PANCHAYAT RAJ FINANCES : SUGGESTIONS

A Study Team on Panchayat Raj Finances, appointed by the Government of India in 1962, under the chairmanship of K. Santhanam suggested, in its report, that a basic minimum maintenance grant, to be shared equally by State and Central Governments, of rupee one per capita should be given to every panchayat. All public lands, ponds, trees, tanks with fishing rights, including their management, cattle ponds etc., situated in its area should be transferred to the panchayat. Labour tax may be levied when voluntary contribution in cash or labour is insufficient to execute a development project. A reasonable share of net income from Samiti and Zila Parishad markets may be given to the Panchayats. For executing specific development projects, Panchayats should have power to levy special tax on land revenue, house tax or some other taxes. A continuous attempt should be made to help panchayats and panchayats samitis to start remunerative undertakings and thereby increase the scope for non-tax income.

The Team also suggested that an annual grant, to be equally shared by the Central and State Governments of rupee one per capita should be made to panchayat samiti for maintenance of staff within this amount. Elementary education should be transferred to Samiti or Zila Parishad and the expenditure involved met out of grants and resources transferred specially for the purpose by the State Government. Every State Government should establish a Panchayat Raj Finance Corporation with the capital ranging from Re. 1 crore to 5 crores for giving loans to Panchayat Raj bodies. The Team has emphasised the necessity for precisely defining the rights, duties, and powers of the Zila Parishad, Samiti, and the Panchayat so that there would be no possibility of overlapping or ambiguity. The Team has held that Zila Parishad or Samiti should not be empowered to levy contributions from the lower tier except for executing development projects. A high-level officer should, at least in the bigger states, be exclusively incharge of financial matters concerning Panchayat Raj bodies.<sup>2</sup>

<sup>1</sup> See I. I. P. A., *Newsletter*, July 1962.

<sup>2</sup> See I. I. P. A., *Newsletter*, October 1963.

There are no two opinions on the point that the finances of the Panchayats should be set on a sound basis. The Taxation Enquiry Commission, 1954, recommended that the following taxes should be reserved for local bodies : (1) taxes on lands and buildings, (2) octroi, (3) taxes on vehicles other than mechanically propelled, (4) taxes on animals and boats, (5) taxes on professions, trades, callings and employment in the newspapers. The second Local Self-government Ministers Conference held in 1964 was of the view that as there was not much scope for increasing the income from tax items, the State Government should give increasingly larger grants and assign a suitable portion of land revenue to Panchayats. The Conference also recommended that the centre should assist panchayats through State Government with subsidies for providing protected water supply.

The third National Subject Matter Seminar held in 1958, was of the opinion that the Panchayats should find finances by tapping local resources, the taxes, fees and cess. There is a general reluctance to impose new taxes, but positive efforts should be made by State Governments to explain to the people the need and justification of such taxes. The Local Finance Enquiry Committee, 1951, recommended that Village Panchayats should also be assisted in the following ways : (a) Salaries and allowances of Panchayat officer should be borne by the State Government, (b) Wherever phanchayats are compulsorily required to maintain chowkidars and perform such other duties, the State Government should bear the cost on account of their salaries and allowances, (c) Phanchayats should be allowed the use of State lands within their jurisdiction.

#### RECOMMENDATION OF A.R.C. ON LOCAL ADMINISTRATION

In the end we give below the recommendations of the Administrative Reforms Commission :

(1) While the administration of development work in a district should be separated from regulatory functions and entrusted to Panchayat Raj institutions, adequate safeguards should be provided to ensure that development administration is conducted on sound and proper lines and that there is no abuse of power or authority. For this purpose, the collector should have powers to obtain information regarding the working of those institutions so that he may be able to give timely and proper advice when necessary in the public interest. It should be clearly understood that this advisory role does not empower him to exercise supervisory and controlling authority over the working of the Panchayat Raj institutions.

(2) The district level officers incharge of development departments should be transferred to the jurisdiction and charge of the Zila Parishad. A senior officer, designated as District Development Officer, should be appointed as the Chief Executive Officer of the



Zila Parishad. In selecting him his suitability in the context of the developmental functions devolved upon the Zila Parishad should be the sole criteria, and the selection should neither be confined, nor denied, to any particular service.

(3) The Zila Parishad should be the main executive body of the Panchayat Raj administration in the district, with the Samiti and the Gram Panchayat functioning at the block and village levels. Subject to this, the State Governments may undertake the distribution of executive functions and powers at the district, samiti and village levels to suit their particular requirements. The area covered by the blocks may be so redistributed that the territorial unit of development administration may, in general, correspond to the tahsil/taluka or a sub-division as the case may be.

(4) The power to suspend a resolution or order of a Village Panchayat or a Panchayat Samiti, may be vested with the Collector and that of a Zila Parishad in the Government. But the power to annul any decision or order of any Panchayat Raj institution should vest in the State Government alone. A District Tribunal consisting of the Collector and a Subordinate Judge should hold enquiries in cases where removal of members of Panchayat Raj bodies is involved. Final orders regarding the removal of members or office bearers should be passed only by the State Government after considering the report of the tribunal. The District Tribunal, consisting of the District Collector and a Subordinate Judge, should also hold inquiries in cases involving suppression or dissolution of Panchayat Raj bodies and report to the Government. The Government will pass final orders with regard to suppression or dissolution of Panchayat Raj bodies after considering the report of the Tribunal.

(5) Panchayat Raj institutions need not submit their budgets for approval to higher authorities, if they frame their budgets including obligatory expenses within their resources, viz. revenues expected to be raised and the grant promised to them, the obligatory expenses taken precedence over the optional ones. If the budget for an expenditure is in excess of such resources, the budgets should be got approved by the authority which is in a position to meet the excess viz. the Zila Parishad or the Government, as the case may be.

(6) An advisory committee consisting of officials and non-officials may be set up by each State Government for advising on the principles which should govern the grant of assistance to Panchayat Raj institutions. The committee may also be required to review the working of these institutions and suggest necessary improvements in procedures and amendments of the law. The appointment of the committee should synchronise with the formation of the plan.

(7) All Officers of Class I and Class II may continue to be drawn from State Governments on deputation basis. Panchayat Service should be limited to Class III (Extension), Class III (Ministerial) and

**Class IV Services.** The officers of these Services should, however be eligible for promotion to Class II and Class III posts, respectively. Posts in Class III may also be filled by persons belonging to the State Services sent on deputation. If such persons are not available, personnel may be recruited specially for Panchayat Raj bodies. Recruitment to Panchayat Service Class III (Extension) should be entrusted to the State level Selection Board, while recruitment to Class III (Ministerial) Service may be handed over to a District Selection Board. The composition of these selection boards may be decided upon by the State Governments.

(8) The Revenue Department should continue to have an official or officials in the villages looking after the work relating to maintenance of land records, collection of land revenue, etc. Where persons previously working in such a capacity have been transferred to Gram Panchayats and continue to do the former work in a part time capacity they should be retransferred to Gram Panchayats and should continue to do the former work in a part-time capacity, they should be retransferred to the Revenue Department.

(9) The present system of elections may be modified as follows : Every application for candidature must be accompanied by a deposit of Rs. 25. Every application for candidature must be supported in writing by at least one-fifth of the total number of the village population or 20 voters, whichever is less.

## CHAPTER XIII

# CIVIL SERVICES

### I. GROWTH UNDER THE BRITISH

The development of modern civil services took place during the British rule over India. Therefore, for a thorough understanding of the various aspects and problems of the civil services, it is very essential to have some knowledge of its past development. During the early period 'the Company's servants were in any case, men of their age, and the age was in many ways ruthless and corrupt.'<sup>1</sup> Those who came here, were often desperate adventurers, men who sought these golden strands of the East to repair broken fortunes; or to wring, with lawless hand, from the weak and unsuspecting, wealth which they had not the character or the capacity to obtain by honest industry at home. They cheated, they gambled, they drank, and they revelled in all kinds of debauchery. The fact was that the civil servants received very meagre salaries and they did not have any security of tenure. They received gifts and presents; they carried on private trade and lent money to Indians at high rates. Consequently their conduct fell far below the standard expected of public servants at the present day.

The candidates in the beginning were selected by the Court of Directors upon their own petition or request. But in 1731 it was laid down that applications for employment under the company could be presented only by the Directors. This gave rise to the system of 'patronage'. The Directors naturally preferred their friends and relations and the service for a long time remained practically the monopoly of certain families. The creation of a civil service in the modern sense of the term was the work of both Warren Hastings and Lord Cornwallis. During their regimes there sprang up a race of trained administrators around whom the old commercial traditions did not cling. With the extension of its duties the Civil Service came to be divided into different branches, viz., judicial, political, revenue and mercantile. Lord Cornwallis put the services on a permanent basis by including them in a 'Covenanted Service,'<sup>2</sup> and all superior

<sup>1</sup> L. S. S. O' Malley, *The Indian Civil Service*, 21.

<sup>2</sup> The name 'Covenanted' originated from the practice of the assistants of the East India Company subscribing to covenants with the company defining their obligations, terms and conditions of service.

posts in the administration were reserved by the Act of 1792 for members of this service. However, they were required to undergo training and the famous Haileybury College was started for this purpose in 1806. As the nominations were made by the Directors, Indians were not admitted to this service. Exclusion of Indians from the superior administrative posts was resented in India. All that was done to respect Indian sentiment was the inclusion of a clause in the Charter Act of 1833, which stated : 'No native of the said territories shall by reason only of his religion, place of birth, descent, colour or any of them, be disabled from holding any place, office, or employment under the Company.'

By the Charter Act of 1853 the right of patronage was taken away from the Directors, and it was provided that appointments would be made in accordance with regulations framed by the Board of Control. Under these regulations the 'Covenanted Civil Service' was thrown open to general competition. Indians now began to clamour for opportunities to appear at these examinations. University education was started about this time and educated Indians sought more lucrative fields and higher posts in services. But the competitive examinations were held in London, so a large number of talented youngmen could not enter competition. With the acceptance of the competitive principle for recruitment, the necessity for a training institution was felt. As a matter of fact the closure of this college and the replacement of patronage by merit as the basis of recruitment synchronised with the passing away of the Company itself as a ruling organisation after the revolt of 1857. However, all the superior posts were still held by the Britishers. Much territorial expansion had already taken place, so the most important task faced by the administration was that of consolidation.

The Queen's Proclamation issued in 1858 not only made a specific reference to the right of Indians to entry in services, but also roused high hopes. But nothing tangible was done to fulfil these assurances. The India Council, constituted in 1860, set up a Special Committee on Civil Service to advise the Secretary of State for India. It held the view that it was not only just but also expedient that Indians were employed in the administration to as large an extent as possible. Technically speaking, they were not debarred from entering the public services of the country; but practically, they were excluded. The law declared them eligible, but difficulties in the way of a native leaving India and residing in England, were so great that they made it almost impossible for a native successfully to compete at the periodical examinations held in England.

To add to the difficulties of Indian candidates, Lord Lytton's Government reduced the maximum age limit from 21 to 19 years, thus making it next to impossible for Indian candidates to compete successfully for the covenanted service. The modification led to an

organised agitation in India during 1877-78. The Government of India had tried in vain to do some justice to Indians, by adopting ineffective expedients. For instance, Lord Lawrence's Government introduced in 1869 a system of scholarships to enable young Indians to compete in England; but the schemes had to be dropped as it was not approved by the Home authorities. Then in 1870 an Act was passed providing for the appointment of Indians of proved merit and ability, otherwise than by competitive examination. The rules under the Act were issued 9 years later, and in the same year *i. e.* 1879, it was decided to fill up by nomination 1/6th of the posts reserved for the members of the Indian Civil Service. Thus came into being the 'Statutory Civil Service'. Even this inadequate provision was not given effect to in a just spirit.<sup>1</sup>

The agitation against virtual exclusion of Indians from the superior posts and the demand for the holding of examinations simultaneously in India continued. A Public Service Commission (consisting of Sir Charles Aitchison as chairman and 15 members) was appointed in 1886 to examine the whole question. Its report, issued next year, recommended (a) the division of Indian Civil Service into three branches—Indian Civil Services, Provincial Civil Services and the Subordinate Civil Services. The recruitment for the first was to continue to be made in England as here-to-fore, but recruitment to the other two was to be made by the Provincial Governments, partly under a system of competition and partly by promotion from the subordinate services, and (b) that about one sixth of the appointments so far reserved to the members of the covenanted civil service were thrown open to the members of Provincial Civil Services. The Commission also recommended that the use of the term 'Covenanted Service' of India should be discontinued and that it should be replaced by the term Imperial Civil Service of India in distinction from the proposed Provincial Civil Service.

The work of the Civil Service during these years steadily increased in volume and complexity. It entailed more and more office work, and it was affected by greater centralisation as well as by the creation of new departments. Voluminous writing work became the most common feature and the civil service became increasingly bureaucratic. Demands for a large number of Indians in the higher ranks of the Civil Service had been made even prior to the birth of the Congress; but after 1885 this demand was voiced by the Congress and the national leaders almost every year. As a result of the

<sup>1</sup> 'From 1853 upto when the Statute of 1870 was passed, only one Indian was admitted to the Civil Service as against 855 Europeans. From 1879 to 1886, there were eleven Indians as against 1576 Europeans; from 1886 to 1910, 68 Indians against 1235 Europeans. Thus from 1853 to 1910 there were only 80 Indians as against 2636 Europeans, about 3%....' S. R. Pantulu, *Public Service Question*.

persistent efforts of Dadabhai Naoroji, the House of Commons passed a resolution in 1893 recommending the holding of simultaneous examinations in India; but it was not given effect to.

The Indian National Congress at the 10th Session adopted a resolution in which it expressed its deep sense of disappointment at the despatches of the Secretary of State supporting the views of the Government of India on the question of simultaneous examinations, and expressed the opinion that the creation of the Provincial Service was no satisfactory or permanent solution of the problem. Matters went on drifting until 1913 when 'Islington Commission' was appointed to inquire into the whole question. The Commission came to the conclusion that the existing system had failed to admit a sufficient number of Indians; but it also rejected the idea of simultaneous examinations. Its report was published in 1916 when the war was at its height, so no action on its recommendations could be taken. It recommended the presence of a strong British element in the services as necessary to maintain the British character and the efficiency of the administration.

It also laid down the principle for fixation of salary to the civil services. It was the only safe criterion that Government should pay so much and so much only to their employees as is necessary to obtain recruits of the right stamp and to maintain them in such a degree of comfort and dignity as will shield them from temptation and keep them efficient for the term of their service

#### CIVIL SERVICE UNDER THE REFORMS ACT OF 1919

Members of the Indian Civil Services, who were mostly non-Indians, as expected, could not take kindly to the reforms which threatened to deprive them of the power and prestige associated with their office for long. 'Though they could not, of course, stop the hands of the clock of progress, they gave emphatic expression to their feeling of alarm at the impending change in the status of the higher services. It was, therefore, felt necessary to provide by statute for their security and for a guarantee against dismissal, reduction of salary and other action detrimental to their position and prospects. One of the important provisions in the constitution was regarding the premature retirement of European servants on a pension, proportionate to their length of service, and the others related to the safeguards for the rights and interests of the services. The Act of 1919 also provided for the appointment of a Public Service Commission.

The demand for the Indianisation of higher services was raised in the Central Legislative Assembly and in response to that the Government of India appointed the 'Lee Commission' to go into the whole question. It submitted its report in 1925. Its main recommendations may very briefly be summarised here. In the first place,

regarding classification and recruitment of services, it recommended that the ICS, IPS, IF (Forest) S, and Irrigation Branch of the IS Engineers should continue to be All-India Services, recruited and controlled by the SOS-in Council. But recruitment to IE (Educational) S, and IMS etc., was henceforward to be stopped *i. e.*, officers required for these were to constitute provincial services. Secondly, it recommended increased rate of Indianisation. Thirdly, it also recommended an increase in the emoluments and privileges of services. The effect of the proposals with regard to the All-India Services on transferred side was practically to stop European recruitment; and Indianization in the new Provincial Services was complete except in so far as the Indians themselves wished to recruit Europeans for special reasons. Even in the All-India Services, which remained under the control of the SOS, a substantial increase was made in the percentage of Indian recruits.

But Indian nationalists were not satisfied with the pace of Indianization. R. K. Shanmukham Chetty made a bitter criticism of the Lee Commission and, in particular, of the all-India services. He observed : 'I find one fundamental principle which runs through the whole of the recommendations of the Royal Commission, and that principle is a deep distrust of the legislatures of this country. At every turn safeguards are sought to be provided for the services on the supposed ground that the legislatures of this country both provincial and central, will repudiate their obligations to maintain these services. I thought that the principle of the increasing association of Indians in every branch of the administration had been already recognised by a statute of Parliament, and that no more bargaining was necessary to put that into practice.'<sup>1</sup>

#### CIVIL SERVICES UNDER THE ACT OF 1935

The Act made it obligatory for the Central as well as Provincial Governments to have their Public Service Commissions. However, two or more provinces could agree to have a joint PSC. It also provided a number of safeguards in response to an insistent demand for them from the higher ranks. The safeguards provided in the Constitution of 1935 may be broadly divided into three groups :

(1) *Protection to officers against judicial proceedings.* No proceedings civil or criminal could be instituted against public servants in respect of any act done in their official capacity except with the consent of the Governor-General (or the Governor) in his discretion.

(2) *Statutory Safeguards as regard conditions of Service.* Important amongst these were (i) No person could be dismissed from service by any authority subordinate to that by which he was appointed. (ii) No person could be dismissed or reduced in rank

<sup>1</sup> See S. R. Maheshwari, *The Evolution of Indian Administration*, 112.

until he had been given a reasonable opportunity to show cause against the action proposed to be taken against him. (iii) Nothing limited the power of the SOS or the Governor-General (or Governor) to deal with the case of any person serving in a civil capacity in such manner as might appear to him just and reasonable. (iv) The salaries, allowances, pensions etc. were charged on the revenues of the Central or Provincial Government, as the case might be. (v) No rules could affect adversely the remuneration or pensions payable to such officers. (vi) Aggrieved persons could complain to the Governor-General or the Governor, as the case might be.

(3) The Governor-General and the Governors were further charged with the special responsibility of securing to the public services all their rights and legitimate interests.

The following conclusions may be noted : (1) The main characteristic of the ICS was its emphasis on intellectual culture through a superior liberal education. (2) The history of the civil services shows that while its leading members were geared chiefly to executive administration, the cadre supplied equally successful personnel for the judiciary as well as the special departments dealing with accounts and audit, imperial customs and public works. (3) Considerations of imperial political interest rendered the choice of province by a civil servant subject to the power of the Government to transfer him to any other place or province according to local requirements. (4) The civil service in India grew as a non-political instrument of Government, aligned to no Indian caste, religion or creed.<sup>1</sup>

#### CRITICISM OF THE CIVIL SERVICES

The Indian Civil Service had developed all the characteristics, good and bad of a caste. It had been a powerful bureaucracy, an exclusive, proud, arrogant and self-sufficient. In Lajpat Rai's opinion, the chief grievances against the services might be thus summarised—(i) the services monopolised too much power and were practically uncontrolled by and irresponsible to the people of the country. (ii) The higher branches of the service contained too many foreigners. (iii) Considering the economic conditions of India, the higher servants of the Government were paid on a scale unparalleled in the history of public administration in the world. (iv) The interests of the services often superseded those of the country and the Government.<sup>2</sup> 'The criticism is not devoid of substance that the services tended, particularly before the war, to take a rather static view of life, displaying in consequence an undue rigidity of outlook and resistance to change. Much graver is the accusation that the services have cultivated an exclusiveness, which

<sup>1</sup> B. B. Misra, *Administrative History of India*, 246.

<sup>2</sup> Lajpat Rai, *Political Future of India*, 66-67.



gives them all the appearance and character of special class.<sup>1</sup>

A frequent charge against the ICS was that administration was too impersonal and lacked human touch. 'It was true that there was a certain aloofness from the people.' The reason was that at first, 'it was manned entirely by the British, majority of whom could not merge themselves with the people. During the British days the members of the ICS were generally isolated from the people.' But it gave an advantage. 'Free from leanings of caste, language and regionalism, these officers brought to their duties an independent and detached outlook which gave them an air of aloofness. Any tendency to develop a local or regional outlook was suppressed and an All-India perspective was always before them. This habit of aloofness was an invaluable asset in inspiring confidence and trust in their impartiality of judgment and action.' Regarding another charge, K. L. Punjabi observes : 'By calling them 'sun-dried' the critics emphasised that the officials were not responsive to public opinion. This was largely a natural consequence of the constitutional position of the All-India Services, which were recruited and controlled by the Secretary of State for India. Their freedom from local control bred in them the habit of thinking that what the country needed was government by the experts, much as Plato had advocated the rule of philosophers.'<sup>2</sup>

Thus the points of criticism were :

(1) All superior administrative services were recruited and controlled by the Secretary of State. No subordinate authority could touch them, as such they could not be expected to show that degree of subordination and loyalty to the ministers which are essential requirements for the success of responsible government.

(2) The superior services still contained a predominant British element. The employment of Europeans was, on the one hand, more expensive for the state, and on the other, it deprived Indians of legitimate opportunities in the higher ranks of services.

(3) The salaries, allowances and pensions of the higher services were very high, particularly in a poor country like India.

(4) Recruitment of services was based on communal representation. This was in violation of the universally accepted principle of recruitment on the basis of merit. Thus many of the civil servants were incapable and inefficient.

(5) The services constituted a class of their own and exclusiveness was one of their characteristics.

(6) The position of the Indian civil servant was not analogous to that of the civil servant in other countries; he took his place in the legislative and executive councils and also assisted in the formu-

<sup>1</sup> From N. R. Pillai's convocation address delivered at the University of Travancore in 1953, published by the *Planning Commission*, 3.

<sup>2</sup> K. L. Punjabi (ed.), *The Civil Servant in India*, Appendix B.

lation of policy.

On the whole, it may be said that the services were efficient, though many of the officers were arrogant and unsympathetic towards the common people, and most of them were not imbued with the spirit of public service.

It would be appropriate to close this section with the following observation of K. L. Punjabi : 'Among some politicians there was a feeling that the services had become a separate estate, with the privileges and guarantee of high salaries and that they had become a power in the land....' The Indians, who formed nearly half of the services, formed the core of administration inherited by the popular Government. Sardar's heart was big enough to appreciate merit and he wanted the services to be steadfast in their tradition of efficiency, impartiality and equality. Of their fidelity he was fully convinced. He had tested them in the turbulent days of 1946-47 and had no doubts about their loyalty.... Sardar Patel was one who realised the important contribution the services had made to the stability of the country and he expressed this forcefully in Bombay in October 1947, when he said : 'We have only a small number of civil servants left. Many people say that they are working in their old ways but those who have experience of administration know under what circumstances and how much they are working. Outsiders cannot appreciate their work. Many of them loyal workers and patriots, are working with us night and day. All that we have been able to achieve, whether it be in the sphere of States or in Kashmir, or any other theatres, has been possible only because of their loyalty and whole-hearted support.'

After the transfer of power on 15 August 1947 most of the European Civil Servants resigned and went back home. At the same time the newly created Dominion of Pakistan needed a large number of civil servants; naturally a very large number of Muslim civilians opted for service in Pakistan. Consequently, the strength of the Civil Service became weakened and depleted under the stress of politics. It was recouped by an augmentation of perhaps inferior staff, channelled through promotion and emergency recruitment. So the Civil Service could not be restored to its original vigour, strength and character except by creating conditions conducive to the quality of selection security and independence of judgment.

## II. CIVIL SERVICES UNDER THE CONSTITUTION OF INDIA

Part XIV of the Constitution may be compared with Part X of the Act of 1935. It may appear at first sight that the provisions of the latter have been reproduced in the Constitution of India. But the key provisions of this chapter are articles 309 and 310. The former empowers Parliament and State Legislatures to regulate the

recruitment and conditions of public services of the Union or of the State. The latter makes it clear that all persons hold office during the pleasure of the President or the Governor as the case may be. As both the President and the Governor are constitutional heads, the control of the service by the Central and State Government is complete. In the Government of India Act, 1935, the control of the services was vested in the Secretary of State. There was no control of the Indian Legislatures over the services.

But now subject to the provisions of the Constitution, Acts of the legislatures may regulate the recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State. Except as expressly provided by this Constitution, every person who is a member of a civil service of the Union holds office during the pleasure of the President, and every person who is a member of a civil service of State holds office during the pleasure of the Governor. But when a person not belonging to any of the services is appointed to any such post, the President or the Governor may, if it is deemed necessary, to secure the services of a person having special qualifications, provide for the payment to him of compensation (before the expiration of the agreed period) without any misconduct on his part, and he is required to vacate his post. The latter clause is intended to cover cases of foreigners being employed on a contract basis.

No person belonging to the above services or holding a post under the Union or a State is to be dismissed or removed by an authority subordinate to that by which he was appointed. Moreover, no such person is to be dismissed or removed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him. However, this is not to apply to cases (a) where a person is dismissed, on the ground of conduct which has led to his conviction on a criminal charge; (b) where the authority dismissing is satisfied that for some reason, to be recorded in writing, it is not reasonably practicable to give to that person an opportunity of showing cause; or (c) where the President or Governor is satisfied that in the interest of the State it is not expedient to give that person an opportunity. This provision gives some kind of security or guarantee to the services.

If the Council of State (Rajya Sabha) has declared by resolution supported by not less than 2/3rds of the members present and voting that it is necessary or expedient in the national interest to do so, Parliament may by law provide for the creation of one or more All-India Services common to the Union and the States, and subject to other provisions, regulate the recruitment and the conditions of service of persons appointed, to any such service. The services known at the commencement of the Constitution as the Indian Administrative Service and the Indian Police Service were deemed to be services

created by Parliament.

This provision was felt to be essential, because on 15 August 1947, most of the European members of those services retired and the Muslim members went away to Pakistan, thus the ranks of those Services were greatly depleted. At the same time it was found that in the interest of uniformity and efficient administration such all-India Services were necessary. 'The All-India Services are intended to supply officers for what are described as the strategic posts in States' administration as well as in the Union Government. They will help in maintaining high standards and efficiency because the All-India Services will be recruited on an all-India basis on the passing of a fairly high intellectual test. It is felt that this system will also give a greater cohesion to the federal structure than is generally found in other federations.'<sup>1</sup>

Except as otherwise expressly provided by the Constitution a person who having been appointed by the Secretary of State in Council to a Civil Service continues on or after the commencement of the Constitution to serve under the Government of India (or of any State), shall be entitled to receive from the Government the same conditions of service as respects remuneration, leave and pension, and the same rights as respect disciplinary matters as the person was entitled to immediately before such commencement (Article 314). 'There was considerable opposition to this article as perpetuating the privileges of the old ICS and other services appointed by the Secretary of State for India under the British rule. But as the Government of India had given a pledge to respect the rights of these services, it was considered necessary to insert this article.'<sup>2</sup> Now article 314 of the Constitution has been deleted by an amendment of the Constitution. Some of the privileges enjoyed by the ICS Officers were : retirement after completing 36 years of service from the date of their arrival in India, entitlement to an annuity of Rs. 13,333·33 per annum, no limit on the accumulation of leave on average pay at the rate of a month's leave per year, and they could not be compulsorily retired as a penalty.

#### THE UNION PUBLIC SERVICE COMMISSION (U.P.S.C.)

The most important provisions in the Constitution are in regard to the appointment, powers and functions of the UPSC. It may be noted here that the first Public Service Commission was set up in 1925, under the Government of India Act, 1919. The Government of India Act, 1935, provided for a federal as well as provincial public service commissions. Chairman and other members of the UPSC are appointed by the President provided that nearly one half of the members are to be persons who have held office for

<sup>1</sup> M. R. Palande, *Introduction to Indian Administration*, 462.

<sup>2</sup> K. Santhanam, *The Constitution of India*, 245.

at least 10 years under the Government. A member of Commission holds office for a term of 6 years or till he attains the age of 65 years. However, a member (a) can resign office or (b) may be removed from office in the following manner; A Chairman or member of commission shall only be removed by order of the President on the ground of misbehaviour, after the Supreme Court, on reference being made to it, has gone into it and has recommended removal. Pending such enquiry, the President may suspend such a person. But the President can by order remove from office a member or chairman of such a Commission if he (a) is adjudged an insolvent or (b) engages in any paid employment outside the duties of his office or (c) is, in the opinion of the President, unfit to continue in office on account of infirmity of body or mind. On the expiration of his term of office, a member shall be ineligible for re-appointment.

The President may by regulations (a) determine the number of members or their conditions of service, and (b) make provisions with respect to their staff and its conditions or service. But conditions of service of a member are not to be varied to his disadvantage during his term of office. On ceasing to hold office, (a) the Union Commission Chairman shall be ineligible to obtain further employment under any Government, (b) a Union Commissioner is also debarred from further employment except for appointment as the chairman of Union or State Commission, and (c) the chairman or a member of a State Commission is similarly debarred except for appointment as chairman or member of the Union or other State Commission. The following comment deserves notice: 'The principle of this article (319) is that once a person becomes a member of the Public Service Commission, he should consider it as the end of public career and should not aspire to any other office (except those specifically provided. It may be noted that there is nothing to prevent retired members of Public Service Commissions from becoming members of Central or State Legislature.'<sup>1</sup>

The Constitution of India has accorded to the Union Public Service Commission a status equal to that of the judiciary and accordingly provided the Commission with adequate safeguards to insulate its members from external pressure. Recognizing the ultimate responsibility of the government of the day for the proper management of public affairs, including the public services, the Commission has been assigned what is essentially an advisory and consultative rather than an executive role. The scope of the Commission's operation has been limited by the President in a number of ways. Clause 3 of article 320 authorises the President to make regulations to exclude matters from consultation with the Commission. But regulations seeking limitation on the Commission's functions require Parliamentary sanction. The Commission is enjoined to present

<sup>1</sup> K. Santhanam, *op. cit.*, 251.

annually to the President a report. The President places the report, with a government memorandum thereon, before Parliament.

*Functions of the U. P. S. C.* The functions of the Union Public Service Commission as laid down in article 320 of the Constitution of India, are as follows :

(1) It shall be the duty of the Commission to conduct examinations for appointments to the services of the Union.

(2) It shall also be the duty of the Commission if requested by any two or more States to do so, to assist those States in framing and operating schemes on joint recruitment for any services for which candidates possessing special qualifications are required.

(3) The Commission shall be consulted : (a) on all matters relating to methods of recruitment to civil services and for civil posts ; (b) on the principles to be followed in making appointments to civil services and posts and making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers ; (c) on all disciplinary matters affecting a person serving under the Government of India in a civil capacity, including memorials or petitions relating to such matters ; (d) on any claim by or in respect of a person, who is serving or has served under the Government of India or in a civil capacity, that any costs incurred by him defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the Consolidated Fund of India ; and (e) on any claim for the award of a pension in respect of injuries sustained by a person while serving under the Government of India or under the Crown in India in a Civil capacity and any question as to the amount of any such award.

(4) It shall be the duty of the Commission to advise on any matter so referred to them and on any other matter which the President may refer to them.

The Constitution also provides that the President may make regulations specifying the matters concerning All-India Services and also other services and posts in connection with the affairs of the Union in which, either generally or in any particular class of cases or in any particular circumstances, it shall not be necessary for the Commission to be consulted. The Constitution lays down that : (i) Nothing in 3 (a), (b), (c), (d) and (e) above shall require the Commission to be consulted as regards the manner in which provision of appointments or posts in favour of any backward classes or citizens which in the opinion of the Government is not adequately represented in the services. (ii) All regulations made by the President specifying the matters in which it shall not be necessary for the Commission to be consulted, as indicated above, shall be laid for not less than fourteen days before each House of Parliament, as soon

as possible after they are made and shall be subject to such modifications, whether by way of repeal or amendment, as both Houses of Parliament may make during the session in which they are so laid.

Since the inception of the Commission, the Government of India has followed the convention of accepting the recommendations made by the Commission. If any Ministry or Department considers it essential to depart from the advice of the Commission, regarding a selection for appointment, a decision to that effect has to be taken by the Government as a whole through the appointment Committee of the Cabinet, consisting of the Prime-Minister, the Home Minister and the Minister administratively concerned with the case, the Finance Minister joining the Committee in the event of the dissenting Ministry happening to be the External Affairs or the Home Ministry. Such cases in which the Commission's advice is not accepted are mentioned by them in a report presented annually to the President, in accordance with article 323 (i) of the Constitution. The Constitution also lays down that the President shall cause a copy of the report with a Memorandum explaining, as regards the cases, if any, where the Commission's advice was not accepted, the reasons for such non-acceptance, to be laid before each House of Parliament.

In order to afford greater security of tenure to the large number of Government servants, Government of India promulgated the Central Civil Services (Temporary Services) Rules of 1949. These rules and a set of similar rules governing civilians in Defence Services, provide for temporary employees being declared as quasi-permanent on the completion of three years of approved service, provided they are within the age limits and have the necessary qualifications prescribed for the posts in question. Quasi-permanency has to be granted by the Government in consultation with the Commission wherever direct recruitment to the post in question is within the purview of the Commission.

Government servants are sometimes prosecuted in respect of acts done or purporting to be done in the execution of their official duty. The claims for reimbursement of the legal expenses incurred by them in defending themselves are referred to the Commission under Article 320(3) (d) of the Constitution. In such cases, the Commission has to examine the reasonableness of the claim, with reference to the circumstances of each particular case and to advise the Government as to the amount that should be reimbursed. The Commission is also required to be consulted on any claim for the award of a pension in respect of injuries sustained by government servants while serving under the Government of India in a civil capacity and any question as to the amount of any such award.

## PERSONNEL MANAGEMENT

The present system has resulted in the responsibility for personnel management in India being divided between three organs—UPSC, the Ministry of Home affairs, and the Ministry of Finance, none of which could wholly be blamed for deficiencies in the prevailing practices in personnel management. Under the present arrangement, the UPSC is only a recruiting agency conducting examinations or holding interviews for various categories of civil services and advising on different kinds of recruitment rules and disciplinary cases. Thus it cannot be in the strict sense of the term called a central personnel agency of the Government of India.

Though all civil posts under the Central Government come within the Commission's purview, the Government is empowered under the proviso of article 320 to make regulations excluding matters from consultation with the Commission. This power is intended to be exercised in exceptional cases in regard to political appointments and other appointments of a highly confidential nature. In practice, the power has been grossly abused, excluding a number of posts from the purview of the Commission, without justification only to satisfy the urge for patronage of certain powerful Ministries.

The UPSC has only one truly executive function ; it has a specific constitutional duty of conducting examinations for appointments to the services of the Union. Another function, which may be regarded executive, is that it presents annually to the President a report of the work done by it during the preceding year. The quasijudicial jurisdiction of the UPSC is limited both in scope and extent. In fact, it has no true appellate jurisdiction. It can only advise on disciplinary actions taken against employees.

Before 1970, the responsibility for personnel management function in the Government of India was shared by the Union Public Service Commission (UPSC), the Ministry of Home Affairs, the Ministry of Finance and the Cabinet Secretary. Commenting on the then existing arrangements, the ARC Study Team Report on Personnel Administration was of the view that both the Ministry of Home Affairs and Finance Ministry dealt with a large number of individual and specific cases referred to them by various ministries and subordinate organisations. The Study Team recommended that the general approach of the Central Personnel Agency should be to concentrate on the development of proper personnel policies and practices and not burden itself with much too massive detailed control.

The Study Team envisaged the following to be the principal functions of the Central Personnel Agency of the Government of India : (i) Formulation of overall personnel policies, in respect of recruitment, promotion, morale, vigilance and discipline, career development, training and maintaining liaison with the UPSC and other



concerned organisations; (ii) Providing guidance and leadership to the departmental personnel agencies in personnel management, both generally and through advice on individual cases ; (iii) Hunting for talent and regulating appointments to key posts, keeping touch in the process with the Bureau of Public Enterprises ; (iv) Undertaking and projecting research in personnel administration serving as a clearing house of information on modern aspects of personnel management, and manpower planning for government requirements; and (v) Overseeing generally the implementation of the policies and regulations formulated by the department through a system of inspections and reporting.

According to a notification issued on 1 August 1970, the Department of Personnel was entrusted with almost all the functions outlined for it by the ARC Report. The Department was set up with the following functions and responsibilities : (a) formulation of personnel policies on all matters common to the Central and All-India Services, and inspection and review of their implementation; (b) talent hunting, development of personnel for 'senior management' and promotion or appointment to senior posts; (c) manpower planning, training and career development ; (d) foreign assistance programme in personnel administration ; (e) research in personnel administration ; (f) discipline and welfare of staff and machinery for redress of their grievances ; (g) liaison with the Union Public Service Commission, State Governments, professional institutions, etc. ; and (h) staffing of the middle-level positions in the Central Secretariat (of Under Secretaries and Deputy Secretaries) with the assistance of and on the advice of the establishment board.

The ARC accordingly recommended : An advisory Council on Personnel Administration may be set up to act as a feeder line of new ideas and thinking on personnel administration. It should be composed of official and non-official experts in different aspects of personnel management drawn from all over the country. In terms of this recommendation of the ARC a high level advisory council on personnel administration was set up on 15 September 1972, under the chairmanship of the Minister of State in the Ministry of Home Affairs. The council will advise the government specifically on policy matters in personnel administration, specially with a view to acting as a 'feeder line of new ideas and thinking in this field' So far, personnel policies were being shaped largely by officers belonging to the ICS and IAS. There has, as a result, been considerable resentment and frustration among personnel in other services.<sup>1</sup>

#### RESERVATION OF POSTS

The manner in which the State carries out its obligation to

<sup>1</sup> See R. B. Jain, *Contemporary Issues in Public Administration*, 48-61.

reserve posts for the scheduled castes and tribes in the public services in case of inadequate representation and to consider their claims consistent with the maintenance of efficiency of administration has been left outside the purview of obligatory consultation with the Public Service Commission [Article 320 (4)]. For the scheduled castes, reservation is 15 per cent of the vacancies for which recruitment is made by open competition on an all-India basis and  $16\frac{2}{3}$  per cent of the vacancies to which recruitment is made otherwise ; for the scheduled tribes, the reservation is  $7\frac{1}{2}$  per cent in both cases, Reservations in direct recruitment to Class III and IV posts, which normally attract candidates from a locality or region, are fixed in proportion to the population of the scheduled castes and scheduled tribes in the respective States and Union Territories.

Reservation is also made at 15 per cent of the vacancies for the scheduled castes and  $7\frac{1}{2}$  per cent for the scheduled tribes in promotions on the results of the competitive examinations limited to departmental candidates in Classes II, III and IV and in promotions by selection in Class II, III and IV and to the lowest rung of class I in grades or services to which direct recruitment, if any, does not exceed 50 per cent. Reservation has also been provided for scheduled castes and scheduled tribes in promotion on the basis of seniority subject to fitness in Class I, II, III and IV posts in grades or services to which direct recruitment, if any, does not exceed 50 per cent. In promotion by selection within Class I to posts carrying an ultimate salary of Rs. 2,250 p.m. or less, the scheduled castes and tribes officers, who are senior enough in the zone of consideration for promotion and are within the number of vacancies for which the select list has to be drawn, are included in that list provided they are not considered unfit for promotion.

To facilitate their adequate representation, concessions such as (i) relaxation in age limit, (ii) relaxation in the standard of suitability, (iii) selection, provided they are not found unfit for the posts, (iv) relaxation of the qualification regarding 'experience' in the case of candidates of the scheduled castes and scheduled tribes, wherever necessary, and (v) inclusion of scientific and technical posts up to the lowest grade of Class I required for research, in the scheme of reservation have been provided for. If no suitable scheduled caste, or scheduled tribe candidates are available for the reserved posts, they are treated as unreserved and an equal number of reservations are carried forward to three recruitment years. In no recruitment year, however, the number of reserved vacancies is to exceed 50 per cent of the total vacancies.

To give effect to the reservations, model rosters of 40 point each have been prescribed for recruitment by open competition and otherwise on an all-India basis. If the vacancies in a service or cadre are too few for the purpose, all corresponding posts are grouped

together. Annual statements are required to be submitted by the recruiting authorities for scrutiny by the government. For ensuring implementation of the special representation orders, liaison officers have been appointed in different ministries of the Union Government. A high power committee, with Prime Minister as the Chairman, has been set up to review the progress of employment of the scheduled castes and scheduled tribes under the Government, of India, the union territories and public sector undertaking. State Governments have also framed rules for the reservation of posts for Scheduled Castes and Scheduled Tribes. The Annual Report of the Department of Personnel of the Cabinet Secretariat reveals that the percentages of reservations in service of the Union Government prescribed for scheduled castes and scheduled tribes are now slightly higher than their percentage in the total population. The percentage of scheduled castes and tribes in the population is 14.6 and 6.94 respectively, according to the 1971 census. In direct recruitment on an all-India basis by open competition through UPSC or by means of competitive tests, the current percentage of reservation is 15 for scheduled castes and 7 for scheduled tribes. The Government has fixed a still higher reservation percentage of 16.65 for scheduled castes and 7.5 for scheduled tribes for services by direct recruitment through channels other than the UPSC.<sup>1</sup>

After the commencement of the Constitution, a number of cases came for decision before the Supreme Court in which the question of interpretation of the special provision relating to the scheduled castes and backward classes had arisen. The first important case arose in 1951, in which the Court was called upon to pronounce their verdict on the validity of a communal G. O. of the Government of Madras which, besides making reservation for Harijans and backward Hindus, also provided reservation for other communities, viz. Muslims, Hindus, Non-Brahmins and Christians, etc. As the special reservation has to be made in favour of the backward classes alone, the said G. O. was struck down by the Supreme Court as repugnant to article 16 (1) of the Constitution.

The intention of the Constitution makers was not to provide for reservation under article 16 (4) for different communities either on the basis of caste or community, etc., as it would amount to a system of communal reservation prevalent before the Constitution came into existence. What they intended was to provide for a general equality of opportunity for all citizens without making any discrimination whatsoever in favour of any class of citizens. But there has been a divergence of opinion among the various High Courts on the interpretation of these identical forms, i.e. 'appointment and posts' and 'matters relating to employment or appoint-

<sup>1</sup> I. I. P. A., *Newsletter*, April 1975.

ments.' While some held the view that equality of opportunity is to be given to a civil servant only at the time of appointment, others held that a civil servant has a fundamental right to have an equality of opportunity not only at the time of initial appointment but also throughout his period of employment.

One similar aspect of the problem has recently come to the surface in Bihar, where the State Government has fixed a quota of 26 per cent for the backward classes. People, including Jayaprakash Narain, feel that backwardness should not be judged by Caste-factor but should be determined by the economic condition of an individual. This has led to widespread riots in the State. Both view-points are possessing strong claimants.

### III. CLASSIFICATION

#### DEVELOPMENT OF THE SYSTEM

A systematic classification of all the services never received the attention of the British Government in India. The various services were principally grouped in four classes—the Imperial Services, the Provincial Services, the Subordinate Services and the Inferior Services. Subordinate Services comprised clerical and typing classes while the Inferior services comprised of peons and messengers. The classification of higher civil services into the Imperial and the Provincial Services was not based on sound and rational grounds. The Islington Commission (1915–17) suggested that there should be two classes in the services under the Government of India to be designated as Class I and Class II. After the Government of India, 1919 the Imperial Services were separated into the All India Services and the Central Services (Classification, Control and Appeal) Rules made in 1930 indicated that the public services in India were constituted of the All India Services, the Central Services—Class I and Class II, the Provincial Services, the Specialist Services, and the Subordinate Services. The Central Pay Commission in 1946, leaving aside the All-India Services, classified the Central Services into Class I, Class II, the Subordinate and the Inferior Services.

The pyramid of the functional or specialised services runs, in some cases, to the top-most secretariat posts. These posts are staffed by general administrators or function-specialists, depending upon the exigencies of the situation. These services are manned by persons of graduated age and specialised experience, specifically recruited for occupying a group of posts in a particular category. Fresh entry into these services is nearly always at the lowest level and as the new recruits grow in age and experience they hold increasingly more responsible posts in the hierarchy. Closely allied with the functional are the specialist services and cadres, recruitment to which is made on the basis of professional qualifications and experience. Where

the magnitude of work is not large enough ad hoc specialist posts have been provided for. The main specialist services are those of Engineering, Education, Forest, etc.

#### CLASSIFICATION SYSTEM TODAY

One of the important features of the classification system in the Government of India today is that it divides civil services not only into classes, but also into civil posts. In other words a certain rank, status and privileges are ascribed not only to an individual civil servant but also to a post. All posts whether permanent or temporary are classified as soon as they are created in consultation with the Ministry of Home Affairs and the Ministry of Finance. The classification has to indicate the class of the post and whether it is a ministerial or non-ministerial post. The distinction indicates that ministerial servants belong to a subordinate service whose duties are entirely or essentially clerical. The Central Secretariat posts in Class I including those of section officers and assistants and clerical posts in Class III are considered ministerial; all others in those classes are non-ministerial. Civil posts are further categorised as 'gazetted' or 'non-gazetted'. This practice simply refers to announcement of postings in the official gazette of the Government of India. The distinction is intended to recognize the public importance of these posts. The criteria for giving civil posts this status is simply that all posts in Class I and only non-ministerial and executive posts in Class II should be given gazetted status. Ministerial posts in Class II can be given gazetted status only in special circumstances.

The various services in India may be broadly classified into : (1) services under the rule-making control of the Government of India, and (2) services under the rule-making control of the State Governments. The former group of services includes besides the Defence Services, All-India Services, Central Services of various classes and other services. The All-India Services include the Indian Administrative Service (IAS) and the Indian Police Service (IPS) which are common to the Union and the States, i.e., they serve the purposes both of the Union Government and of the State Governments. However, the present system of service classification in India is both vertical and horizontal. The vertical classification mainly includes these categories : (i) General Administrative Services, e.g., the IAS and the State Civil Services ; (ii) Functional Services, e.g., the Income-Tax service, the Indian Audit and Accounts Services, the Central Customs Service, the Central Excise Service, the Indian Foreign Service ; and (iii) Specialist Services, e.g., Central Health Cadre, Central Legal Cadre, the State Health Service, the Engineering Cadres of State Public Works Department, etc. In addition to these there also exists a Central Secretariat Service and a Ministerial Service in the States. The Central Secretariat Service is divided into

5 grades.

The horizontal classification of services is based on the degree of the importance of work and the nature and scale of responsibilities involved. The services are horizontally classified into 4 categories, viz., Class I (equivalent to administrative class in U. K.); Class II (equivalent to Executive Class in U. K.); Class III; and Class IV. Class I of the Central Services includes Indian Audit and Accounts Services, Indian Revenue Service, Indian Postal Service, Section Officer, etc. Class II includes Assistant Superintendents (Gazetted) and assistants (non-gazetted). Class III includes Upper Division Clerks, Lower Division Clerks, etc. Class IV cadre staff includes messenger-cum-peons, sweepers, watchmen, elevators, staff car drivers, etc. It may be added here that Scientific, Engineering, Medical and Public Health, and Railway Staffs as well as Economists and Statisticians etc., are also divided into Classes I, II and III. It should also be noted that all posts in Class I, and the bulk of the posts in Class II, are 'gazetted,' but others are not.

The members of the All-India Services are selected through the Union Public Service Commission; although a majority of members of these services serve under the State Governments. All appointments to Class I service are made by the President; the power to make the first appointment in other Classes is generally delegated to lower authorities. At present there are more than 30 Central Civil Services Class I, including the Indian Statistical Service and Indian Economic Service. There are about 25 Class II Services and only 4 Class III Services in the Central Government. With each of the four Classes of services there is a hierarchy which is expressed either in terms of the pay scales or of the grades. The distinction between the pay scales and grades mainly lies in the process of promotion. The efficiency bar is considered as an important provision of the time scales, though in practice the upward movement of an employee is virtually automatic. Movement from one grade to another necessitates a selection process; hence the grades serve as a filtering mechanism. The Indian Foreign Service and the All-India Services have two pay-scales, viz., the junior and the senior scale which operate as their grades; other Class I services now have a single integrated scale. The Class II services had many more scales and grades. But following the recommendations of the Second Pay Commission a single standard scale for Class II has now been accepted. Pay scales and/or grades in Class III are even more numerous. For the clerical staff there are four supervisory grades plus three more as UDC, LDC and Stenographers. In the Central Secretariat the entire hierarchy is broken down into nine grades consisting of Secretary, Additional Secretary, Joint Secretary, Deputy Secretary, Under Secretary, Section Officer, Assistant, UDC and LDC.

The present four-fold classification was not organised on any

systematic basis. A conceptual framework was essentially lacking and the basic categories arose entirely by a historical accident. The numerical calling superimposed on the various services was merely a matter of convenience. In other words, the present classification system was never designed nor intended either for orderly grouping of services or as a tool for managing the personnel. The absence of a clear-cut principle of classification has certainly taken a toll of effective personnel administration. The Second Pay Commission estimated in 1959 that there were 517 different scales of pay, out of which only 177 had more than 100 employees each. For administering these differing provisions of pay and other benefits of service, the Government of India has had to maintain a large staff to check and calculate their benefits. As a result of the recommendations of the Second Pay Commission, the number of pay scales has now been reduced by nearly 200. However, the standardization cannot be fully effective until the entire classificatory system is properly re-studied, re-designed and re-organised. The Third Pay Commission has brought down the number of pay scales from the 300 or more existing scales to 80 scales only.

With the Union Government's decision to dispense with the practice of gazettement certain ranks, the two-century old anachronism in country's government service has made its exit. With this decision, the terms such as 'Class I, II, III and IV' also yield place to 'Group A, B, C and D'. The foregoing steps have been taken to reduce workload in government presses, economising on the cost of printing and paper, and increasing efficiency in the management of service in the audit offices. A Study Team of the Administrative Reforms Commission had earlier recommended that there was no need to classify the posts and services as 'gazetted' and 'non-gazetted.' The first and second pay commissions had considered the question. The final view taken by the government then was that the existing classification under classes one, two, three and four should continue. The committee of secretaries which considered the second pay commission report had suggested omitting the word 'Class' which had a psychological disadvantage. It suggested a minor change for substituting the description groups A, B, C and D for Class I, II, III and IV. The recommendation then was not accepted. The decision to remove the distinction between gazetted and non-gazetted officers involves a revision in the procedure in the matter of drawal of pay, etc., of officers.

#### KOTHARI COMMITTEE ON RECRUITMENT POLICY AND SELECTION METHODS

The Union Public Service Commission and the Union Government, as stated in the annual report (26th) of UPSC for 1975-76, are considering the recommendations given below :

It has recommended that recruitment to the all-India and central services (Class I) should be made on the basis of a unified civil services examination common to all the services, as per the following scheme consisting of three sequential stages namely : (i) Civil services preliminary examination (objective type) for the selection of candidates for the 'main examination; (ii) Civil services main examination (written and interview) to select candidates for entry to the Academy; and (iii) Civil services post-training test to be conducted by the UPSC on completion of the foundation course at the Academy to assess personal qualities and attributes relevant to civil services.

The Committee has further recommended that the civil services preliminary examination should serve as a screening test for the large number of candidates wishing to compete at the civil services examination. The arrangement for the examination should be so made as to substantially widen the base of recruitment. According to the Committee, the preliminary examination should serve as a screening test only; the marks obtained at this examination would have no other function or weightage in the selection process. The question papers will be of the objective type. The civil services main examination will consist of written papers and interview. The candidates will have the option to answer the papers, except the language paper, in any of the languages included in the Eighth Schedule to the Constitution and in English. Apart from the compulsory papers, the candidates will have to choose two subjects from a wide range of optional subjects. It has recommended the syllabi for the different subjects for the civil services examination.

The candidates selected on the basis of the civil services main examination (written and interview) are to be admitted to the Lal Bahadur National Academy of Administration for a foundation course of about a year. At this stage, they will not be allocated to the various services and the marks obtained by them in the main examination will not be disclosed. At the end of the foundation course, the trainees will be interviewed by a Board constituted by the UPSC and marks assigned to each candidate. The allocation of trainees to the various services will be determined by the total of the marks obtained at the main examination and the post-training test, taking into account their preferences for the services. It has recommended certain modifications in the training scheme involving also the reorganisation of the National Academy of Administration. Pending the necessary changes in the Academy and in order to allow sufficient time for the changeover, the Committee has recommended that the first two sequential changes, namely, preliminary examination and the civil services main examination (written and interview) should be introduced in 1977 and the full scheme including the post training test in 1980.<sup>1</sup>

<sup>1</sup> I. I. P. A., *Newsletter*, July 1977.



#### IV. COMPENSATION

Compensation plan has an integral role in personnel administration and it is based on the classification plan. The significance of pay rates is reflected long before the employee enters a job. They have impact on recruiting, on public service prestige, on the extent to which youngsters will set out to prepare themselves for government work and thus on the nature of school and college curricula, and on every other aspect of public personnel administration. A brief summary of the principles of pay as laid down in the Report of the Enquiry Commission is as follows : (1) The structure of emoluments... should be so designed as to ensure recruitment at different levels of persons with requisite qualifications and abilities and to keep them efficient. (2) The 'model employer' principle is not suitable for determination of remuneration. (3) The minimum wage or salary should not be determined only on economic considerations, but should also satisfy social tests. Even above the minimum level Government should remunerate their employees fairly. (4) In the present circumstances, the principle of fair comparison with rates of remuneration in outside employment is not suitable for full and detailed application; but it is one of the important factors to be taken into account. (5) Once the demands of efficiency of the public service are satisfied, social considerations require limitation of disparities between the highest and the lowest salaries, and their reduction as far as possible. (6) With the minimum and maximum salaries having been determined on a combination of social and economic considerations, sound and equitable internal relativities constitute the most important single principle to be followed in the determination of the intermediate salaries and wages of government servants. (7) The level of consumer prices is among the factors relevant to the determination of rates of remuneration of Government servants. (8) The disparities between Central emoluments and those under State Governments and Local Bodies should be regarded as a factor calling for restraint, but not one what would justify the denial to the Central Government employees of the minimum improvement in remuneration which otherwise appears to be fair and desirable. (9) With the present magnitude of unemployment and under-employment in the country and the low levels of income, the present minimum of Rs. 75 is sufficient to attract recruits of the right type. (10) The present minimum remuneration of Rs. 75 in Central Government compares favourably with the average minimum rate in organised private industry.

In devising its pay structure, the Third Pay Commission kept in view the tests of 'inclusiveness', 'comprehensibility' and 'adequacy.' It commented that an uncritical use of comparison between government salaries and the salaries of organised trade and industry, without

considering the work content and the totality of prevailing circumstances, is not justified. The government has to take note of its dual role, both as employer and as the supreme authority responsible for the governance and development of the country.

The commission recommended that a common wage policy should be evolved for public sector undertakings and an effective co-ordinating machinery should be established to ensure that the pay scales of any public sector undertaking do not go seriously out of line with those in other public sector undertakings and under the government. The commission fixed the pay scales of various posts under the government with reference to their duties and responsibilities, difficulty and complexity of the task, qualifications, etc. It also recommended that there should be a more effective application of efficiency bars in the various scales and the crossing of efficiency bar should not be a routine matter. In order to attract outside talent and experience into the middle ranks of the civil services, the Commission recommended that from 10 to 25 per cent of the vacancies arising in the junior administrative grade or equivalent in the IAS and most of the Class I services should be filled by direct recruitment of outside candidates and regular members of the services would also be eligible to apply.

The main demand of the employees was for a need-based minimum wage according to the norms of the 15th Indian Labour Conference. The cost of the need-based wages, as per these norms computed by the Commission came to Rs. 314 per month. The Commission stated that having regard to the prevailing level of wages in the agricultural sector and the general minimum level in trade and industry, the adoption of minimum remuneration with reference to these norms would at this stage amount to a mis-direction of resources. The cost of the need-based wage, according to the commission's concept, came to Rs. 196 per mensem. Since a Class IV employee at the beginning of his career is not usually expected to be responsible for the maintenance of three adult consumption units including himself, and may not even be married, the Commission recommended a minimum remuneration of Rs. 185 p. m. for a whole-time government employee at the start of his career. At the end of five years' service such an employee will automatically get the need-based wage of Rs. 196 p. m. according to the time-scale the Commission suggested. The Commission also recommended a special pay of Rs. 10 p. m. as against the existing rate of Rs. 3 p. m. for certain categories of Class IV staff whose work is exceptionally heavy or involves risks, health hazards or employment in unpleasant or uncongenial occupations.

**PAY SCALES IN INDIA (1958)**  
*before the report of the Second Pay Commission*

Secretary (if held by an IAS Officer)			Rs. 3000 p m.
Secretary (if held by an ICS Officer)			„ 4000 „
Joint Secretary—IAS			„ 2250 „
—ICS			„ 3000 „
Deputy Secretary	1100-1300	1600-1800	„
Under Secretary	800-1150		„
Superintendent	530- 800		„
Assistant Superintendent	275- 500		„
Assistant	160- 300	300- 450	„
Upper Division Clerk	80- 120	200- 220	„
Lower Division Clerk	60- 85	125- 130	„

Some of the important recommendations of the Commission were : (1) The highest posts in the Secretariat may continue to be remunerated at the existing rates. (2) Dearness allowance should continue as a separate element in the remuneration of Central Government employees. It should however, be limited for the present to employees whose salaries are below Rs. 300 per mensem. The following typical scales of pay were recommended for Class I, II and III services and posts.

Class I	Senior Scale	Junior Scale
Indian Foreign Service	900-1800	400-1000
Class I (Non-technical Services)	400-700-1250	
Scientific Services	850-1400	400- 950
Medical Services	850-1400	575-1150

Class II	
Standard Scale	350-500-900
Research Assistants	325-475-575
Assistant in the Central Secretariat	210-290-530

Class III	
Supervisory Grade I	425-575
„ „ II	310-475
„ „ III	210-380
„ „ IV	130-300
Upper Division Clerk	130-180-300
Lower Division Clerk	110-130-180
Stenographers	320-530

Class IV	
Peons etc.	80-110
Workshop Staff unskilled	70-110
„ „ skilled	85-180
„ „ highly skilled	130-240

The Government of India announced on 2 August 1960 its decision to implement the recommendations of the Second Pay Commission regarding the introduction of revised pay scales. In pursuance of the Commission's recommendations concerning the revision and rationalisation of over 500 existing rates or scales of pay into about 140 scales of pay, the Government finalised pay scales which covered 75% of the employees, and almost all Class IV and workshop personnel. The revised scales of pay and dearness allowance were given with retrospective effect from 1 July 1959. The pay scales of the Indian Police Service were revised in 1961. The existing and revised scales are given below :

Existing	Revised
Junior Scale 350-590-EB-850 plus D.A.	400-670-EB-950
Senior Scale 600-1000-EB-1150 plus D.A.	740-1100-EB-1300
Selection Grade Rs. 1250	Rs. 1450
Dy. I.G.P. 1550- 50-1650	1600-100-1800
I.G.P. 1850-100-2250	2250 fixed

The Government of India, in consultation with the State Governments early in 1962 again revised the scales of pay for the Administrative Services as follows : Junior—Rs. 400-500-40-700-EB-30-1000; Senior—(a) Time scale : Rs. 900-50-1000-60-1600-50-1800, and (b) Selection grade : Rs. 1800-100-2000. Earlier the scales were as follows : Junior—Rs. 350-400-450-500-540-30-600-EB-30-870-40-950- plus dearness allowance; Senior : Rs. 800-50-1000-60-1300-50-1800 plus dearness allowance admissible to its employees with effect from 1 December 1965.

In the States members of the All-India Services (IAS and IPS) occupy the highest ranks in the administrative and police service. Like the Central services, State services are broadly classified into Class I, II, III and IV, Secretariat, Gazetted and non-Gazetted, Ministerial and non-Ministerial categories. But their classes and categories differ from State to State. Moreover, there are different types of services in the States, for example, administrative, police, engineering, agriculture, education, health, cooperative, etc. Usually the pay scales for similar services are lower in the States than those of the Central Government Services.

The report of the Third (Central) Pay Commission was presented to Parliament by the Finance Minister on 3 April 1973. The main effort of the Commission had been to rationalise the pay scales, numbering over 500, and reduce them to just 80 and, in the process, give better scales to various categories of employees. An attempt had also been made to reduce the disparity in pay scales by raising the minimum salary to Rs. 185 per month. As a result, the disparity ratio between the minimum and the maximum salary (both post-tax) was reduced from 15.4 on 1 January 1970 to 11.8. The Commission recommended no change in the maximum salary of

Rs. 3500 per month.

It did not recommend any change in the age of retirement, but proposed improvements in pension rates and retirement benefits. Existing pensioners were outside the purview of the Commission. For future pensioners, it recommended grant of relief at 5 per cent of their pension, subject to a minimum of Rs. 5 and a maximum of Rs. 25 per month as and when the average of the cost of living index rises by 16 points. As regards dearness allowance to Central Government employees in service, the commission recommended increase as and when the 12-monthly average of the index rises by eight points as compared to 10 points at present. Employees getting more than Rs. 900 per month should also be paid D.A. but only when the price rise is of a higher order.

One of the important recommendations of the Commission is that lateral entry into services like the IAS and other Class I Services should be allowed to attract outside talent and experience. The Commission recommended that 10 to 25 per cent, of the vacancies in the junior administrative grade may be filled in this manner. It also recommended continuance of the payment of city compensatory allowance in various towns and payments of overtime, as at present. However, it was not in favour of continuing payment of overtime to employees of such establishments to which the practice was extended subsequent to the recommendations of the Second Pay Commission. In addition to existing leave and travel concessions to government employees for their home town once in two years, the Commission recommended that they should be given the same facility to travel to any place in India once in four years. Some educational facilities were also recommended for the children of officers transferred in the middle of an academic year.

The Union Government accepted the recommendations of the Third Pay Commission pertaining to Class II, III, and IV employees with some modifications. Important modifications in the recommendations of the Pay Commission were : raising minimum wage from Rs. 185 to 196, revising five pay scales (from Rs. 185-220 to 196-232, Rs. 190-232 to 200-240, Rs. 190-240 to 200-250, Rs. 200-260 to 210-270, and Rs. 200-280 to 210-290) in the process; improvement in pay-fixation formula; cent per cent neutralization of dearness allowance upto the pay of Rs. 300, and 75 per cent between Rs. 300-900 on every increase of 8 points in the 12 monthly increase of the index; and changing date of enforcement of new pay scales, dearness allowance, and retirement benefits from 1 March to 1 January 1973.

The Union Finance Minister announced in the Lok Sabha on 29 March 1974, the decision of the Government regarding recommendations of the Third Pay Commission relating to Class I Officers. The Union Government accepted all the recommendations of the

Commission relating to central services—including Police Service—in order to narrow the gap between their pay scales and those of IAS/IFS. The new pay scales of Class I Officers, which took effect from 1 January 1973, are as follows (the existing scales are given in parenthesis) : IAS/IFS : Junior Scale Rs. 700–1300 (Rs. 400–1000), Senior Scale Rs. 1200–2000 (Rs. 900–1800), Selection Grade Rs. 2000–2250 (Rs. 1800–2000) ; Indian Police Service (Junior Scale) Rs. 700–1300 (Rs. 400–950), Senior Scale 1200–1700 (the existing scale is Rs. 740–1300 and Pay Commission had recommended the scale of Rs. 1100–1300), Selection Grade Rs. 1800 (the existing scale is Rs. 1400 and the Pay Commission had recommended Rs. 1650–1800), D.I.G. Rs. 2000–2250 (Rs. 1600–2000), Additional IG Rs. 2250–2750 (Rs. 2000–2250), IG Incharge of State Police Rs. 2500–2750 plus special allowance of Rs. 250 per month (Rs. 2500–2750); Organized Engineering Service; Junior Scale Rs. 700–1300 (Rs. 400–950), Senior Scale Rs. 1100–1600 (Rs. 700–1250), Junior Administrative Grade Rs. 1500–2000 (Rs. 1300–1600/1800), Selection Grade Rs. 2000–2250 (there was no selection grade before); Grades for Heads of Department : 50 per cent of the posts in Rs. 2250–2500 and 50 per cent in Rs. 2500–2750 (the Pay Commission had recommended the ratio of 2/3 : 1/3 for these two scales, the existing scale; is Rs. 1800–2250/2000).

The Commission introduced, for the first time, the concept of selection-grade in Class I Services which has been accepted by Government. The strength of Selection-Grade was to be determined after review of cadre structure and promotion prospects, etc., in each service. The Commission had recommended that the Selection Grade in IAS should be given to 20 per cent of the senior scale posts which the Government has cut down to 15 per cent. The Government has also extended Selection Grade of Rs. 2000–2250 to organised engineering services on the basis of stagnation at the maximum of Rs. 2000 in the Junior Administrative Grade for two years. This will also apply to Economic and Statistical Services but on the basis of the posts to be determined by Government. The Government waived the condition recommended by the Commission regarding not allowing increments, till completion of 14 years service, to an officer of Central Services appointed to the Junior Administrative Grade (Rs. 1500–2000) and further improved the service prospects of such officers. The Government accepted the Commission's condition, laid down for the time, that IAS Officers should not be eligible for appointment to the Selection Grade before they enter their 14th year of service.

While the Commission did not recommend any revision of pay for posts above the level of Joint Secretaries, it has recommended selective up-gradation of posts at this level for the Central Services.

For example, the existing scale of Rs. 3000 was revised to Rs. 3000-3500 in case of Deputy Comptroller and Auditor General; General Manager, Railway Engineering and Other Services; Director General, Roads, and Central Engineering Services, Financial Adviser, Defence Services; Chairman, Income-Tax and Excise and Customs Services, and Central Water and Power Commission.<sup>1</sup>

A feature of the prevailing system is the wide disparity between the salaries of All-India Services and those of Central and State services performing more or less identical duties. This is not conducive to the morale of the services. A further discouraging feature is the wide gap between the senior scales and junior scales. The junior ranks are now facing a difficult economic life on account of high prices; they should be decently paid in order to keep them above petty malpractices. Above all, the clerical cadres do not get a living wage and adjustments with reference to rise in the cost of living index are tardy, belated and grudging. One solution is to prevent expansion of size at the base and provide accelerated promotion to middle grades, so that every one may be helped to do more responsible work in his or her own interests to get the grade.

The Administrative Reforms Commission (ARC) argued that (a) the present multiplicity of scales for different groups neither makes for a rational system of remuneration related to work content nor does it facilitate the selection of personnel for different services for higher positions; (b) the absence of a rational pay structure which could take into account distinct levels of work and responsibility makes it difficult to put through a programme of career development based on the discovery and development of a talent and a planned development thereof; (c) it is not easy to draw talent from a variety of sources due to dissimilarities in the existing pay scales; (d) the existence of long pay scales and the feeling of easy attainment of increments, which such scales induce, is a disadvantage, in that it does not provide for the recognition of merit as against mere seniority and without unified grading structure, there would be difficulties for recognizing merit and providing adequate opportunities for promotion and incentives for good performance; and (e) there is an imbalance in the remuneration attached to headquarters posts and the field posts leading to a rush for the former and the misutilisation of talent.<sup>2</sup>

For the purpose of reform, the ARC made the basic recommendations: (1) The posts in the Civil Services should be grouped into grades so that all those which call for similar qualifications and similar difficulties and responsibilities are grouped in the same grade. The number of such grades as suggested by the ARC should be

<sup>1</sup> I. I. P. A., *Newsletter*, April 1974.

<sup>2</sup> Administrative Reforms Commission, *Report on Personnel Administration*, 33-34.

between 20 and 25 ; and (2) all services, currently called, Class I, II or lower should each be assigned a starting and terminating grade. The promotion of an officer in an established service from a lower to a higher grade should be on the basis of good performance.

The ARC also proposed certain guidelines for evaluation and classification of posts and their linking them with grades. (i) In those services which have field as well as headquarters posts like All India Services, technical or otherwise, and many of the Central Services, the liability for service all over the country should be reflected in the pay pattern and grading system to be adopted. (ii) For other services which work either only in the field or at the headquarters, the grades of pay scales should depend only on the duties and responsibilities attached to the posts (iii) The fact that the State Services are required to work only within the confines of a State and do not carry a liability for functioning all over India should be reflected in their grades of pay. (iv) Posts in which highly important research work has to be carried out may be graded high even though they may carry little or no administrative responsibility. The ARC also recommended that as far as practicable the ratio which the increment in an entry scale bears to the difference between maximum and minimum of that scale should be the same in all other entry scales.

The Commission noted that while they had attempted some simplification and rationalisation of the pay structure, there were several limitations to the extent that such measures could be undertaken. Because of the vastness of the Central Government organisation and the highly diverse nature of the functions that are performed by the 2·8 million civilian employees of the Central Government, it would not be feasible to grade them in 20 to 25 categories as suggested by the ARC or 12 categories for Classes III and IV employees, as suggested by the All India Railwaymen's Federations.

The Commission further pointed out the following two attendant disadvantages in attempting too drastic a reduction in the number of grades : (1) In the opinion of the Commission, it will result in curtailment of promotion opportunities in certain spheres. (2) The Commission felt that employees were now unlikely to accept a permanent reduction in their emoluments, however, small it may be. Any simplification of the pay structure can be expected to result more in the prevalent scales drawing level with the highest in a group rather than in any general lowering of these scales. The Commission therefore did not think it appropriate to adopt the schemes of a unified grading structure. However, the Commission did suggest the adoption of job evaluation techniques, first on an experimental basis, and later, if found successful, on a continuing basis.<sup>1</sup>

<sup>1</sup> See R. B. Jain, *op. cit.*, 93-94.



## V. RECRUITMENT

There are two distinct philosophies governing the system of recruitment. One school of thought believes, as in UK and India that for a large variety of services what is needed is the selection of the potential man. It believes, that a person should be recruited young, that what should be judged by way of his merit is his general capacity to assume higher and greater responsibilities later and that promotion should both be an incentive as also a device for filling a higher vacancy. The other school of thought, as in USA, believes in defining a job and prescribing the qualifications needed to fill that job. Recruitment then takes place to select a person qualified there and then to fill that job irrespective of his future potentialities. Obviously, under the system considerable premium is placed on specialised knowledge and on the present attainments of a candidate rather than on general education or on his capacity for full growth in future.

As regards the methods or techniques of recruitment, they also differ. The UK has experimented with what are known as Methods I and II, although a bulk of the recruitment now takes place through Method II, and Method I has been discontinued since 1969. In France recruitment to the higher services is on the basis of a written competitive examination followed by an interview as in India. In West Germany final recruitment takes place after an initial selection followed by a very careful assessment of almost three and a half years of pre-service entry training. In some of the states like the UK and USA psychologists are also associated with the selection of candidates.<sup>1</sup>

Our system of recruitment is based, for the most part, on the British model. For purposes of initial recruitment, we still depend on the general knowledge, or the intellectual capacity and ability of an entrant. We do not seek any kind of proficiency in any specialized field at the time of entry to the civil service. In another important respect also our system is similar to that of the British. It is based on the principle of merit and employes open competition as the chief method. In this respect the main provisions in the Constitution of India are : (1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State ; and (2) no citizen shall on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the State.

### IMPORTANCE OF DEGREE

In actual practice our recruitment is confined to graduates not

<sup>1</sup> *Ibid.*, 107-08.

only for the higher rungs of the service ladder but also for some of the lower levels. The advantage is that only those who have received the best education are recruited for higher services. The present system is criticised on the ground that it encourages far too many persons to study for university degrees, resulting in over-crowding in universities and fall in the standard of higher education. In 1955, the Government of India set up a committee to examine, among other matters, the question as to how far, and at what levels, the possession of a university degree is necessary for recruitment to the public services. Qualifications for Recruitment Committee has come to the conclusion that a university degree should not be dispensed with entirely, and has recommended : (i) that it should continue to be a pre-requisite for entry to the senior administrative and executive services of the Union and the States ; (ii) that for the middle group of services, a university degree should not be an essential qualification, but the age limit should be so fixed that graduates as well as non-graduates...might be eligible ; and (iii) that for the clerical services the age limit should be so fixed that a graduate should, ordinarily be ineligible for those services.

But in spite of frequent pleas, neither the Commission, nor the Government has been convinced of the utility for reducing the initial qualifications. It has been argued that reduction of the initial qualifications might create more difficulties for the Commission. However, according to a report<sup>1</sup>, the IAS officers may start getting their bureaucratic training after leaving school in the near future. The Minister of State incharge of the Department of Personnel in the Government of India at that time said that government employment should be 'de-linked' from university degree. Under the proposed scheme, Class I and Class II officers for Central and State administrative services would be trained in institutions specifically set up for the purpose. The IAS cadets selected through all-India competitions after higher secondary level, will be placed in an academy for four or five years. The broad pattern of the administrative academy would be similar to the military academy at Khadakvasla.

Direct recruitment of the administrative and most of the executive services is made on the result of competitive examinations, the scheme of which is based mainly on these ideas : (a) a test of intellectual ability and scholastic attainments through written examination in subjects of the candidate's choice (optional papers) ; (b) a written test common to all candidates, designed to test capacity for effective thinking, power of clear expression and general knowledge (compulsory papers) ; and (c) an interview to assess a candidate's personal qualities. Recruitment by promotion is also made, particularly at lower levels of services. For example, all permanent and temporary vacancies in the Lower Division Clerks' grades are

<sup>1</sup> *The Hindustan Times*, 7 November 1974.

filled by direct recruitment ; but about half the posts in the Upper Division Clerks' class are filled by promotion on the basis of seniority cum-merit. From one-fourth to half the posts in the ministerial classes *e. g.*, Superintendents, Assistant Superintendents, Assistants are filled by promotion.

#### IMPORTANCE OF INTERVIEW

In this connection the opinion of late G. B. Pant was : 'I am personally not fully satisfied with the present system of 'interview'. I feel that it has been given undue importance in our general scheme of competitive examinations.... The interview constitutes the continuance of that negative process, which had been the characteristic of our administration in the olden days.' But S. B. Bapat observes : '... considering that higher administration nowadays requires the administrators to 'state the case' orally and argue across the table to a great extent, it will be realised that with its limitations interview is a reasonably reliable test and as members of the Interview Board are drawn from different walks of life the danger of biased and subjective judgment is very largely neutralised.'<sup>1</sup> However an adjustment has now been made by lowering the percentage of marks for personality evaluation. In the United Kingdom importance is attached to personality assessment by the use of psychological and aptitude tests.

Until recently only graduates in Arts and Pure Sciences were recruited and others who took degrees in Applied Sciences or in certain other subjects had been left out. Now graduates in agriculture and civil engineering, mechanical or electrical engineering are also eligible for the IAS Examination ; but those in other branches of engineering or technology, for instance chemical engineering or metallurgy, are still ineligible. In this connection another point of criticism is that the main emphasis in the past had been on the administration, so it should be shifted considerably to scientific, technological and industrial aspects of development. A. D. Gorwala suggested the establishment of an Economic Civil Service in his Report published in 1951.

The competitive examination in India is conducted in two parts. The first is the written examination for which three subjects (English Essay, General English and General knowledge) are compulsory. In addition to these three subjects there are twenty five optional subjects (including all the natural and social sciences, humanities and the classes) and sixteen additional advanced subjects. Candidates for the IAS/IFS have to appear in three optional subjects and two additional subjects, the standard of examination of the latter being much higher than for the former. Candidates for other Central Services and the Police Service need not appear for the advanced

<sup>1</sup> P. A. Abstract, April 1975

subjects. The second part of the competitive examination is the personality test. Only those who are placed high in the written examinations are called for this test. The personality test is devised with due regard to all the relevant considerations including age and educational qualifications prescribed and the requirements of the Service(s) concerned. The subject of the interview is to assess the personal suitability of the candidate for the service for which he has applied.

It has been suggested that some over-age lateral recruitment should be made regularly to the higher grades of the IAS to secure the services of distinguished persons from the academic and industrial fields. This practice prevails in the USA. But this suggestion has not found favour in India, for two reasons : (1) Indian system is based on the wide acceptance of the British concepts and model. (2) Senior officers with entrenched position in the service are opposed to the suggestion.

On methods of recruitment, the ARC further suggested that, a committee should be set up to go into the question of devising speedier methods of recruitment in general ; of bringing down the proportion of candidates to posts ; of reducing the expenditure on publicity and on revising the syllabii of the examination for the higher services. Following these recommendations, a Committee was constituted under the chairmanship of Dr. D. S. Kothari to go into the existing system of recruitment of certain services and posts by the UPSC and to recommend such changes as it considers appropriate.

#### CONCLUSION

The methods of recruitment and selection of personnel by the recruiting agencies have not undergone any substantial change since pre-Independence days ; although a few marginal changes are apparent. For the other general services and posts, some improvements have taken place, for instance, a large section of the clientele is reached by advertisement through the regional language newspapers. The Scientists Pool, has undoubtedly helped to stem the 'brain drain'. But more action is necessary to improve present methods of recruitment and staffing, to assess and forecast manpower or personnel needs, and to develop better personnel data. Further, it is necessary to provide for the development of new personnel skills, and coordination of the needs for such personnel between the various sectors of the national life.

## VI. TRAINING

Training of administrators is linked with the philosophy of recruitment and the objectives of the organisation. As regards basic

principles, there are two schools of thought. The first believes that no amount of training can endow an individual with a flair for administration which has to be inborn. The second believes that by a selective rational system of training, the basic and essential qualities of an administrator can be instilled besides improving his skill on the job.

The following objects of training, defined by the Asheton Committee (United Kingdom) in 1944 are relevant even today, even in the Indian context : (1) Training should endeavour to produce a civil servant whose precision and clarity in the transaction of business can be taken for granted. (2) The civil servant must be attuned to the tasks which he will be called upon to perform in a changing world. The civil service must continuously and boldly adjust its outlook and its methods to the new needs of new times. (3) There is a need to develop resistance to the danger of the civil servant becoming mechanised by the machine ; whilst we must aim at the highest possible standard of efficiency, our purpose is not to produce a robot-like, mechanically perfect civil service. (4) Even as regards vocational training, it is not sufficient to train solely for the job which lies immediately at hand. Training must be directed not only to enabling an individual to perform his current work more efficiently, but also for fitting him for other duties and, where appropriate, developing his capacity for higher work and greater responsibilities.

While recruitment is the job of the Union Public Service Commission, training of the civil servants is the responsibility of the Government. The object of training and its system have undergone a radical change since independence. The training is now aimed at developing the civil servant's capabilities and broadening his outlook, apart from providing him the knowledge and teaching him the skill, required for a particular job or service.

Prior to 1959, the entrants to the two All-India and the other Central Services were trained at different training centres. At present, entrants to the All-India and the Central Services (Class I—non-technical) have all to undergo a five months foundational course, at the National Academy of Administration. This combined foundational course has been introduced to give the probationers an understanding of the constitutional, economic and social framework within which they have to function. The courses cover subjects like Indian culture, the Constitution of India, Public Administration, Indian Economy, State and the Social Services, Science and Technology, Law, Elementary Psychology, and Hindi. After completing the combined foundation training, the candidates belonging to the various services disperse to their respective training centres. Further training is, more or less, specialised for the service to which a candidate belongs. Period of training is different for various services and it is conducted in two different manners : (i) Institutional training

(for Administrative, Police, Audit & Accounts, and Income-Tax Services), and (ii) training under the guidance of senior and experienced officers for Defence Accounts, Customs, Postal Services etc.

With a few exceptions, systematic arrangements for post-entry training do not exist for the Class II and subordinate services. Here the emphasis is on on-the-job training. However, a few departments run staff colleges or training institutions to train their employees. The Railway Ministry runs a staff college for training its employees. Similarly, the Posts and Telegraphs and the Central Excise Departments run training institutions for their staffs. The courses at these institutions are practical and the subjects relate to the work in the Departments.

Training courses for direct recruits to the grades of Assistants and Section Officers of the Central Secretariat Service are conducted at the Secretariat Training School. Pre-entry training to the officers of the Indian Statistical Service is provided at the Training Unit of the Central Statistical organisation with the assistance of the Indian Statistical Institute. Similar training for the officers of the Indian Economic Service is organised at the Institute of Economic Growth. For the rest of the services, the training is on the job, under experienced officers.

Refresher courses have assumed great importance during the last ten years or so. The National Academy of Administration conducts refresher courses for officers of the Indian Administrative Service with 6 to 10 years' service. The refresher course consists of the study of administration in specialised branches, discussions on administrative difficulties and pooling of experience gathered by officers in the field in different states. The Secretariat Training School runs refresher courses for Section Officers, Assistants and Upper Division Clerks.

In-service training has got further impetus with the decision of the Government of India to organise a number of short-term training programmes in executive development for Government officers working at the Centre as well as in the States. These programmes are organised at the Indian Institute of Public Administration and are meant for officers of the rank of Deputy Secretary to the Government of India (or equivalent post) or above. The training programmes conducted, so far, are on social welfare administration, development administration, budgeting and expenditure control, problems and techniques in Plan formulation at the State level and economic decision-making.

The National Academy of Administration was established at Mussoorie in 1959 after merging the two existing institutions IAS Training School (Matcalfe House), Delhi started in 1947 and the IAS Staff College, Simla. The National Academy has enlarged functions. The most important innovation introduced by the

Academy is the provision for a common foundational course for the IAS recruits as well as for those selected for the Indian Foreign Service, the Indian Police Service and the Central Services. After this course, only the IAS men continue in the Academy, the others proceed to complete their training in their own specialised institutions, or according to other arrangements as in the case of the Foreign Service. One very good idea of this course is that it aims at removing the barriers which existed between officers of the different services. It may be described as a national course of training. Another important consideration behind the introduction of this course has been that all these recruits to these important services should have a knowledge of the political, constitutional, economic and social context in which the administration functions. The course extends over five months. The Academy is also intended to provide higher courses for the Union Services, conduct seminars, hold conferences, etc.

The Union Ministry of Home Affairs evolved a 'sandwich pattern of training' for IAS probationers for improving the quality of training during the probationary period and to make it more problem-oriented. It was introduced at the National Academy of Administration, Mussoorie in July 1969. Under the new system the institutional training of IAS probationers has been divided into two periods of about eight months and four months separated by a 12-month period of practical training in the States. This has been described as the Sandwich type of training. During the first spell of training at the Academy, the probationers receive intensive training in subjects like Law, Economics, Political Theory, Constitution, Indian History and Culture. They are then sent to their States of allotment for a period of one year for training on-the-job followed by a four-month training at the Academy. During this period their training concentrates largely on the problems and techniques of administration and more practical aspects of Economics. Being problem-oriented, the training is based largely on their experience and observations in the field of district administration.

For top executives, both in business and government, the Administrative Staff College, Hyderabad, provides a 4 months' course on the model of the famous British Staff College, Henley. The staff college was established on the initiative of the Central Government and with the active interest and cooperation of business and industry. The objective is the executive development of administrators, both from business and industry as well as from government. In addition, there is a Police Training College for IPS at Mount Abu. The Indian Institute of Public Administration established in 1953, has also been engaged to some extent in this training programme. The Institute has also been running short-term courses for junior officers of different categories working in Union Territories or Public Sector Undertakings like the Hindustan Steel. It has also been organising

periodical Discussion Groups for young Deputy Secretaries and has been holding conferences from time to time in some of the branches of the Institute for small groups of officers.

Among other developments in training mention may be made of the schools which have been set up, in several States to train recruits to the upper levels of State Services. Before 1947, they did not exist in any State. Beginning first with Bihar, they now exist also in Rajasthan, Orissa, Assam, Gujarat and Uttar Pradesh. Madhya Pradesh and some other States have established schools or institutions for training officials and non-officials in panchayat raj, rural development and cooperation.

With a few exceptions such systematic arrangements for post-entry training do not exist for the Class II and subordinate services. A regular programme of training, first launched by the Ministry of Food and Agriculture in cooperation with the Ford Foundation in 1952, has been evolved during the last few years. There are also about 130 training centres for the different categories of extension officers, such as Block Development Officers, Social Education Organisers, Extension Officers for Agriculture, Industries, Cooperation, Health and Village Level workers. As a matter of fact, in regard to other services, the training is mostly on the job, under the guidance of senior officers. The detailed programme provides for the trainee first watching and then actually doing the work. Though there is a considerable improvement in the provision of training for higher services, yet the lower ranks are not getting proper training. It is realised that the existing facilities for training are not adequate : although important steps have already been taken in this direction.

A major deficiency in the existing set-up has been the lack of a sound and integrated policy on employees training. There is hardly any concerted development programme for 'higher' and 'middle' management level employees ; this is also true of Class III employees, whose promotion is not based on the fact that the employees belong to the service and not to a particular department. The trainees are also not very keen on new training programmes, as there is hardly any relationship between training and promotion opportunities. Under these circumstances, there is a need of such agency as can give leadership to the training programmes in Government. The Director of the National Academy of Administration, who had been earlier designated as the Director of Training was hardly in such a position on account of his responsibilities as the Director of the Academy. The Government of India had in 1968 established a Training Division in the Ministry of Home Affairs (which has since been transferred to the Department of Personnel according to the ARC recommendation, under a Director of Training, to co-ordinate the training activities in the Central Departments and for rendering assistance for similar activities in the States.



The twin concepts of responsible government, and a welfare state have made it necessary for the civil servants to develop not merely individual competence, but also a proper attitude in terms of a higher conception of the contribution they can make to the welfare, happiness and good government of the community. Any training programme in any developing country should, therefore, provide for the imparting of basic knowledge of subjects and development of the right type of basic attitudes.

Recently an innovation has been made in the training of the civil service in India. The knowledge-content of the officers in two important subjects—economic administration and management in Government—has been modernised, and the IAS training is receiving a systematic input of knowledge and skills in these areas. Systematic training is being organised both at the post-entry stage and at the in-service stage to enable the IAS officers to up date their knowledge and improve efficiency to become effective instruments for change and development in modern public administration. A programme of in-service training for improving the professional competence of the officers and to prepare them for assuming higher responsibilities is also being developed. The objective of the in-service programmes is to increase the efficiency of participants by enabling them to acquire knowledge of new techniques and tools of administration. In keeping with the objective, a general refresher course for IAS officers of 6–10 years seniority has been developed. The coverage of the course has been divided into three areas— (a) Economics in Government, (b) Management in Government, and (c) General and Social Administration.<sup>1</sup>

The ARC also made certain far-reaching recommendations in respect of training at the junior management level, for example, it recommended that a refresher training course for Under Secretaries from the CSSS cadre and a 12 week training course for other Under-secretaries may be formulated; and training for middle-level management in the Secretariat (for Deputy Secretaries and other officers with equivalent status) should have the following three broad elements: (a) training in headquarters' work; (b) special courses in each of the eight broad specialisms; and (c) sub-area specialist training. It also suggested that training in policy and planning should be provided as a part of training for all specialisms.

#### SUGGESTIONS

An important suggestion is the adoption of 3-year course for the training of superior civil service officers on the lines of the French system. At present training in France aims at opening the minds of students by bringing them into direct contact with life, with concrete problems and with different human and social conditions, so as to

<sup>1</sup> R. B. Jain, *op. cit.*, 140–44.

give them a feel of life and reality. This is attempted in a stage comprising the whole of the first year, when the students are attached to the Prefects of the Departments or administrators in North Africa. The second year is devoted to systematic intellectual studies. The aim is to complete the general cultural knowledge of the students but with emphasis on aspects, which will impinge on their official work, and to give them an administrative formation. The course is divided into two parts—a common course for all students, supplemented by specialised courses in the four sections. After the end of the second year, final examinations are held and the students are also assigned to different careers. The probationers again return to the school which becomes in the third year, a school of application.<sup>1</sup> There is no doubt that such a comprehensive training will have distinctive advantages; but the question of expenses involved is a difficult one, particularly under the prevailing conditions.

L. P. Singh made a very valuable suggestion. This is about paying greater attention to imparting managerial and administrative skills to those who enter the public service on the basis of their professional qualifications. The need for training engineers, doctors and other professional groups in managerial skills, rules, and regulations, canons of financial propriety, and the tenets of the Constitution, etc., is imperative. Occasionally, blunders are committed by people with professional backgrounds in their administrative functions, in the absence of knowledge of these basic principles. It could happen that an expert inducted to an administrative job may lose his professional competence in the process of administering financial, accounting and personnel matters; or he may perform these duties unsatisfactorily for want of proper training. There can, of course, be exceptions who would feel equally at home in their technical and managerial functions even without formal training; but for the bulk of them, some sort of induction to administration is necessary.

It has been suggested that the following recommendation about the training and education of civil services in the United States may be profitably adopted in India. Prior to the passage of the Government Employees Training Act in 1958, most Federal agencies were unable to send their employees to universities at the expense of the government. Since the Act's authorization of such study during work hours or on the employees' own time, thousands of employees have been sent to universities to take courses. This has brought some problems which the Government of India might wish to consider, should it decide to move in the same direction. The Task Force found that the US agencies lacked a clearly defined policy on the use of universities, so it laid down the broad outlines of such a policy. First, it pointed out the distinction between what universities

<sup>1</sup> See Asok Chanda, *Indian Administration*, 125-28.

could best provide and what government should provide for itself

Universities, they said, are best suited to provide : (1) basic education and knowledge of academic disciplines ; (2) preparation for professional careers; (3) knowledge and concepts about US Society as a whole; and (4) horizon-stretching courses for selected, experienced officers.

Government is best suited to provide training : (1) in specializations dealing intensively with specific applications of theory and practice to government programmes ; (2) on department or government policies, programmes, and procedures ; (3) in techniques related closely to work performance; (4) on government administrative techniques and procedures; (5) in fields not commonly found in universities; and (6) in frontier areas where the agency is the prime source of knowledge.

## CHAPTER XIV

### CIVIL SERVICES (Contd.)

#### I. PROMOTION

Promotions are made by the Union and State Governments generally on the recommendations of the Heads of Departments, and sometimes with the aid of the advice of the concerned Public Service Commission. Confidential reports, which are filled up every six months, are the basis for promotion. Such promotions are usually made in accordance with the principle of seniority. For example, in the Assistants grade under the Union Government, one out of four vacancies is filled Ministry-wise by promotion from below the rank of Assistant on the basis of seniority-cum-efficiency after the eligible employees have successfully completed three years' service. In the same way, a portion of the vacancies in the Upper Division Clerks' grade is filled by promoting Lower Division Clerks on the basis of seniority cum merit. In addition to this practice, civil servants within the prescribed age-limits and other rules may also compete through examinations for higher grades and classes. In every grade there are efficiency bars which are generally allowed to be crossed without difficulty. Thus, in principal respects, our system is very much similar to that prevailing in the UK, but there is nothing like the promotion boards, which should be introduced with a view to ensuring greater fair-play and justice for the employees.

The views of Govind Narain on 'Performance Appraisal and Promotion System' may briefly be summarised here : One of the important functions of performance appraisal is to act as an instrument in the hands of the administration for the proper assessment of the actual performance of individuals within the service and regulate their ordered and just advancements. The importance of correct and objective appraisal can, therefore, not be overstressed. The criteria for promotion should be suitably reflected in the appraisal reports, which in turn should influence the employee in developing a proper sense of values and in giving emphasis during his performance to attributes which could qualify him for promotion. There should, therefore, be a lot of change of emphasis in promotion procedures so that much greater weight is attached to the actual achievements and the end-results and much less to the other unimportant aspects or to seniority alone or to performance before a Promotion Board. The

adoption of some of the management techniques would enable the annual reviewing system to be more closely based on the objective assessment of performance rather than the subjective opinions as to personal characteristics.

There has been a great deal of controversy over the relative values of seniority and merit in any system of promotion. It could easily be conceded that in an atmosphere where correct appraisal is not available and objectivity becomes a casualty the criterion of merit could be associated with a great deal of danger and risk. If we accept that objectivity is not possible, there would hardly be any room for any discussion on this subject. I believe that with proper understanding, the proper values will be reemphasized and objectivity will be dominant, as it should be. 'If that is accepted, I would go on to say that if the country's expectations are to be fulfilled, if the enormous needs of the present time are to be adequately catered for, and if proper emphasis has to be given to initiative, dynamism and speedy action, the criterion of seniority which relies only on the quality of the employee at the time of his recruitment, will unhesitatingly have to be pushed to the background. Seniority will doubtlessly always remain as a fact but there would be much greater opportunity for the able, irrespective of their seniority, to move up fairly rapidly. Often, it is said that at least for the lower ranks seniority alone should be the criterion for promotion. I am afraid, I would not find it possible to agree to this. The quality of work is as important in the lower rank as in the higher and if that be so there is no reason why even in the lower ranks greater emphasis should not be placed on the quality of work and the merit of performance rather than only on the number of years of services.'

In a system of promotion as visualized earlier, the appraisal reports would also be required to contain an overall assessment of the reporting officer and the reviewing officer regarding the grading of the employee for purposes of promotion. The system existing till recently provided for such an assessment in the form of 'outstanding,' 'very good,' 'good,' 'fair,' and 'poor'. It was provided that the promotions in Class III and Class IV services were to be made on the basis of either seniority subject to the rejection of the unfit, or seniority, subject to the satisfaction of a minimum merit criterion. In promotions from Class III to Class II greater importance was intended to be given to merit and for promotions from Class II to Class I consideration was expected to be given to differences in the degree of merit such as 'outstanding,' 'very good', and 'good.' Promotion could thus be restricted to those in these three categories, leaving out those who were assessed as 'fair' or 'poor'.<sup>1</sup>

<sup>1</sup> See O. P. Motiwal. *Changing Aspects of Public Administration in India*, 231-32.

In Class I Services, approximately 55 per cent of the posts are held by those directly recruited to that class, and the rest are filled by promotion. The exact proportion of promotion posts varied from one service to another. Filling up of 25 to 33 per cent of the vacancies arising in a year by promotion is a common practice. In the Central Secretariat all the posts from Under-Secretary to Secretary are promotion posts. In case of Section Officers, two-third of the number of vacancies are filled by promotion from Assistants. Similarly in the case of Assistants 50 per cent of the vacancies are filled by promotion from clerical grade I (UDC). Posts in clerical I (UDC) are all promotion posts.

Broadly speaking, the promotion rules lay emphasis on merit for posts at higher and middle levels, and on seniority-cum-fitness for those in lower levels. Promotions are made by a Departmental Promotion Committee or other selecting authority which first divides the fields of choice, *i. e.*, the number of eligible officers awaiting promotion who should be considered for inclusion in the 'select list' provided, however, that an officer of outstanding merit may be included in the list of eligibles even when he is outside the normal field of choice. Promotions are normally made from this 'select list' in the order in which the names are finally arranged. The 'select list' is periodically reviewed.'

As regards other incentives, by and large, cash rewards are not offered. Government servants, are, however, given certain other benefits such as greater security of tenure, houses at concessional rates or house rent allowance, liberal leave and pension benefits, medical facilities, etc. Distinguished and highly meritorious work outside the normal duties is sometimes rewarded by cash compensation which is termed honorarium. If outstandingly good work is done on a particular case or an assignment or a problem, it is recognised by recording appropriate observations on the case or by a letter of appreciation under the signature of the Head of Department or under the orders of Government, or a suitable mention is made in the annual report of the Department. If the work for the year as a whole deserves to be classed as 'outstanding', it is so mentioned in the annual confidential report, and would probably result in the person concerned being entrusted with enhanced responsibility or his getting accelerated promotion.

The methods usually followed in making promotions are assessment of suitability on the basis of records, selection on the result of a competitive examination and by making use of competence or trade tests. The last method is used mainly for industrial workers. Competitive examination, as distinct from qualifying or subject matter

departmental examinations, is not much used. By and large, therefore the assessment of suitability on the basis of record is the method obtaining in the civil service. The efficacy of the method obviously depends upon the uniformity, strict objectivity and completeness of the annual reports on the works of employees.

Some of the inadequacies of the promotion system may now be mentioned. The most prominent feature of the system is the rigid compartmentalization of career prospects within departments and services; and this gives rise to the complaint that career prospects in similar or related grades in different departments of government are lacking. Further, while seniority subject to fitness may be a satisfactory criterion at the lower levels where only routine or repetitive operations are involved and it may be assumed that it is being worked with fairness, there is no provision for recognition of merit for out of turn promotion in the lower grades, or for competitive entry into the higher grades from amongst those serving in the lower grades. This also tends to discourage entry of candidates of good quality in the lowest grades.

Criticism of the scheme of promotion to selection posts has also been fairly widespread. The Second Pay Commission noticed that in about 50 per cent of the cases, the character roll was not a good index of the worth of a government servant, that the annual confidential reports were laconic or vague and that there was no positive assessment of intelligence and other qualities. It is also widely believed that since the practice of grading of officers was introduced in annual report form, there has been a veritable scramble for the 'Outstanding' categorization, because of the premium placed on it in the system of promotion to selection posts.

The Estimates Committee in its 9th report, 1953-54, made the following suggestions in regard to promotions in the country : (a) Promotions should be solely on the basis of merit regardless of the seniority of the persons concerned in service. (b) persons should be judged for promotion by the people who have watched their work and conduct over a period. (c) Promotions should be made on the recommendations of a Committee consisting of not less than 3 officers, one of whom at least is acquainted with the work of the person concerned. (d) In judging the person on the basis of the Confidential Report on him, it should be seen that he was warned in time of the defects noticed in his work and conduct and that if he did not show improvement he was warned again. (e) If no warning has been given to a person, it should not be presumed that the reports on him are so good as to justify his promotion.

Based on the preceding discussion, the following suggestions for the direction of reform in promotion system in use in the Government of India, are offered :

- (1) The hesitant synthesis of seniority and merit that has

characterized the promotion systems must give place to an accelerating rate of adoption of a full-fledged merit system.

(2) To enable the promotion system to ensure a continuous supply of expert manpower, a sound base of opportunities for growth, development and advancement by way of planned career development and training should be built up as quickly as possible.

(3) The normal career expectations for all new entrants to the public service should be made known and, where necessary, the service and grade structures altered suitably to fulfil such expectations. At the routine and repetitive levels of work, the normal career expectation might be a maximum of two grades above the entry grade. At the higher levels, the expectation may be of only one grade above the entry grade. All further advancement must be on the principle of merit without any reference to seniority.

(4) Outside the promotion system, there should be opportunity for competitive entry into the various grades into which there is direct recruitment. The scheme of a special limited competitive examination to provide young officers in Class II and Class III services an additional opportunity to enter in all the Class I or Class II services, to which there is direct recruitment by a competitive examination, was recommended by the Second Pay Commission but it has unfortunately not been implemented so far.

(5) The system of annual reports on performance should be overhauled so as to facilitate assessment of performance, appraisal of ability and identification of potential for promotion with great care and objectivity. The annual reports prepared on this basis will be a strong management tool for promotions for designing programmes for training and education and for career development.

(6) After a precise definition of norms and procedures by the central personnel agency, the operation of the promotion system should be decentralized, the power to promote being delegated to the heads of the various organizations. The Departmental Promotion Committee procedure may be followed and the committee should be formed with the approval of the central personnel agency. At certain levels, the central personnel agency may also participate in the promotion committee by nominating a member. At still higher levels, the central personnel agency may itself constitute the promotion committee and handle the promotions.

(7) Experiments may be started with the introduction of qualifying at the promotion examination for positions in the middle levels in the supervisory and executive grades and perhaps also in staff appointments, at Under Secretary and Deputy Secretary levels.

(8) To ensure complete objectivity in the operation of a promotion system based on merit, and to provide a safeguard in the exercise of delegated power, an appeal system should be built up with power to the appeal board to set aside a promotion and pass such



orders about the promotions to be made as it is considered appropriate. A representative of the head of the organization concerned or of the central personnel agency should present the case of the organization before the appeal board.<sup>1</sup>

The Janta government has decided to increase the promotion quota in the IAS/IPS to 33.25 per cent, in terms of the Administrative Reforms Commission's recommendation. In regard to central services, it has been decided that the cadre authorities should individually come up with their proposals for enhancement of promotion quota within a period of six months. This information is contained in the annual report of the Department of Personnel and Administrative Reforms for 1976-77. The report also brings out the broad principles which are followed in the allocations of Indian Administrative Service probationers to state cadres and joint cadres.

The government reviewed cases of certain Central Government employees who were removed or dismissed from service during the emergency for their alleged active participation in the activities of certain organisations. As a result of the review, orders were issued for reinstatement of most of those categories of employees except those who were involved in espionage and other objectionable and illegal activities. This is stated in the supplement to annual report of the Department of Personnel and Administrative Reforms, Ministry of Home Affairs, for 1976-77. The report also says that the government has decided that all Central Government employees who had been detained under MISA and who had since been released should be reinstated forthwith.

The Government has decided in terms of ARC's recommendations in its report on personnel administration suggesting voluntary retirement of government servants on proportionate pension and gratuity after 15 years (10 years for superseded officers), to permit the voluntary retirement after 20 years of service in respect of all government servants, with five years' extra benefit in qualifying service subject to the maximum benefit of 30 years.

The important principles are :

(i) The vacancies in every cadre are distributed equally into 'insider' quota and 'outsider' quota. Where the number of vacancies in a particular cadre is an odd number, the extra vacancy is given either to 'insider' or 'outsider' taking into consideration the allocations made on the basis of previous examinations.

(ii) The vacancies for Scheduled Castes and Scheduled Tribes are reserved in the various cadres according to the prescribed percentage and distributed equally into 'insider' and 'outsider' quota.

(iii) Allotment of 'insider' both men and women candidates is made strictly according to their rank and preference for home state.

<sup>1</sup> See P. K. Dave, 'Promotion and Incentives in Public Services', *I. J. P. A.*, July-September 1966, 538-39.

(iv) Allotment of Scheduled Castes/Scheduled Tribes is made strictly against the vacancies reserved for them in the various cadres on the basis of their rank in the merit list and the order of preferences expressed by them for the various state cadres and joint cadres.

(v) The allotment of women candidates, who are not covered within the 'insider' quota is made strictly according to their rank and preferences and subject to the condition that with the allocation of 'outsider' women to a particular cadre, the number of women should not exceed 25 percent of the total number of vacancies in that cadre.

(vi) Allotment of all other 'outsider' male general candidates is made in accordance with the set 'roster system' after placing the insiders and women candidates at their proper places in the allocation chart, as briefly explained below : (a) All the state cadres and joint cadres are arranged in alphabetical order and divided into four groups. (b) The 'outsider' male general candidates are arranged in order of merit and allocated to the state cadres which have not received insiders in the first cycle. This process is repeated in successive cycles, each successive cycle beginning with the next successive group of state cadres. (c) For the succeeding year, the allocation is started with the next group of states, the arrangement will begin with group II on top. In the third year, group III will come on top and so on.<sup>1</sup>

## II. RETIREMENT BENEFITS

### TENURE

There are three forms of tenure : (1) at the will of the appointing officer, (2) a fixed term of years, and (3) during good behaviour or for life. So far as the first form is concerned, very little use is made of it in the case of civil servants, because most of them enter the government services for the sake of its permanence or fixity of tenure. No permanent civil servant can be removed without sufficient cause before the fixed term of his service comes to an end. Even the legislators, ministers and members of various commissions and bodies are generally appointed for a fixed term of years. The third form of tenure is considered most appropriate for judges as in USA, but in our own country even the judges are appointed for a fixed term of years.

### RETIREMENT AND PENSION

A dignified and planned system of retirement upon superannuation, and of pensions, is an integral need of a modern career service plan. A retiring public servant should be entitled to an honourable discharge and an adequate pension. Pension payments should be a matter of right, prescribed by law and regulation, and

<sup>1</sup> *Times of India*, 6 July 1977.

should become a legal obligation to be paid. Security in old age is something, the official who has given faithful service should be able to count on, not something to be left to arbitrary decision. Pension plans should be maintained only for the career service and the right to enter them should be reserved to the permanent officials.

Retirement systems may be classified upon the basis of whether the employee contributes all from current salary, whether the employee and the Government both contribute part, or whether the Government contributes all. They may be called as wholly contributory, partly contributory and non-contributory respectively. The first system is generally adopted in Government services. The civil servants are not required to contribute anything, but after retrenchment they are entitled to pensions. A good and common example of the second is the system of provident fund in the private education, under which the teachers contribute a fixed percentage and when they retire the management and government contribute an equivalent share. In certain government services such as railway services, in place of pensions there is provision for gratuity and other benefits.

Another important point of consideration in connection with the systems of retirement is that of superannuation, *i. e.* the age of retirement. In India the age of retirement was 55 or after 30 years of services whichever was earlier. This age was fixed at a time when the expectation of life was lower than now. In view of this and other considerations the Union and several State Governments raised the age limit to 58. The question was considered by the last Pay Commission, which recommended an increase in the age of superannuation to 58; but the Government have decided to retain the existing limit. In this matter the Government had been influenced by the adverse effect which the raising of retirement age would have on employment opportunities available to young men and women in the immediate future.

Retirement systems in India may be classified as : (1) Compulsory retirement on superannuation, *i. e.*, on attaining the age of retirement. (2) Forced retirement takes place when a government servant is required to retire due to loss of efficiency. Retirement, ordered as a result of disciplinary proceedings, is also included in this category. (3) Voluntary retirement, *i. e.* a government servant, who has rendered 25 years' qualifying service or has attained the age of 50 years, has the option of retiring voluntarily. (4) Retirement on invalidation. This takes place when, on account of his physical or mental infirmity, a government servant seeks retirement or is made to retire under certificate of proper medical authority. (5) Retirement on abolition of office. If the permanent post held by a government servant is abolished and if at the same time it is also not possible to find an alternative employment for the holder of the post he has to retire from service.

There are accordingly four kinds of pensions, namely : (i) superannuation pension, (ii) retiring pension, (iii) compensation pension, and (iv) invalid pension. Broadly speaking, a person retiring on superannuation and who has rendered qualifying services of 25 years or upwards receives a pension equal to one half of his average emoluments. In case the qualifying service is less than 25 years but not less than 10 years, the amount of pension is  $x/60$  of average emoluments, where  $x$  represents the number of complete years of qualifying services. The same amounts are admissible, broadly speaking, in the case of other types of pensions. For a services of less than 10 years, only a gratuity is admissible, the amount of which is calculated at the rate of one month's pay for each completed year of qualifying service. From 1 April 1950 to pension have also been added the benefits from provident fund and from an insurance system. Under the new system a government servant gets  $1/4$ th of the average emoluments as pension ; he is also allowed to contribute to the provident fund at the rate of not less than one anna per rupee and the government adds 9 pies for every rupee of pay ; and a maximum is prescribed for the amount insured varying from Rs. 500 to Rs. 5,000.

Some of the main recommendations of the Second Pay Commission with regard to retirement benefits may also be briefly summarised here : (1) Industrial staffs, on being made permanent, should be brought under the standard pension scheme. (2) The right to withdraw the whole or a part of a pension should be restricted to certain very exceptional, specified contingencies. (3) The rate of gratuity should be changed so as to make the maximum amount available on completion of 30 years' qualifying service. (4) A widow's and children's pension benefit scheme, on a contributory basis, should replace the existing family pension scheme.

The Government of India raised the age of compulsory retirement of the Central Government servants from 55 to 58 with effect from 1 December 1962. An amendment to the relevant rules provides that on attaining the age of 55 or after, the officer can himself retire or the Government can do so, but in either case a three-month notice will be required. The scheme envisages extension of service beyond the age of 58 years in the case of scientific and technical personnel if they are fit and suitable to work. Falling in line with Union Government, almost all the State Governments have also raised the age of retirement for their employees.

#### FAMILY PENSION SCHEME

The Government of India introduced a liberal scheme of family pensions for the Central Government Employees in December 1964. The scheme provides for a life pension to the widow of an employee with a minimum of Rs. 25 per month and a maximum of Rs. 150

per month. The scheme covers all regular employees, permanent and temporary with one year's service. Allowances are paid to minor children in the event of the death of the widow. The employee, on his part surrenders part of his gratuity equal to two months' emoluments as a token contribution. In January 1966, the Government of India decided to pay the double benefits available under the present Family Pension Scheme, subject to a limit of half the pay last drawn when the death of a Government servant occurs after seven years of service. It will be paid for a period of 7 years or till the due date of retirement whichever is earlier, and thereafter the family will get the normal pensionary benefits.

The Union Government modified the rules for premature retirement of its employees with a view to providing safeguards against arbitrary action according to press reports dated June 1972. Under a three-year-old arrangement, the Government can retire—'in public interest'—an official (belonging to Class I and Class II), either when he is 50 or has put in 30 years of service. The employees have a corresponding right to ask for retirement. In particular, the rule would not be used in the following cases : (i) to retire an employee on grounds of specific acts of misconduct as a short cut to initiating formal disciplinary proceedings ; or (ii) for reduction of surplus staff or as a measure of effecting general economy, without following the rules and instructions relating to retrenchment ; and (iii) on the ground that the employee may not be suitable to continue in his officiating post or for promotion to a higher post for which he might be eligible after attaining the age of 50 or completing 30 years service, as the case may be.<sup>1</sup>

### III. MORALE IN PUBLIC SERVICES

Importance of morale in public service has increased considerably in free India, because we have to realize the goal of a welfare state and that, too, in a democratic way. Success of the democratic experiment in India is largely dependent upon the performance of public services. The feeling is that in the pre-independence period there was greater efficiency in administration. Various factors seem to have contributed to the decrease in efficiency. First, in most cases there have been rapid promotion, since the process of Indianisation proceeded at a much greater rate than the normal course and at the same time there has been so much expansion in public services that suitable employees in large numbers have not been forthcoming. Secondly, undue interference from the side of political superiors and legislators, etc. has also led to many undesirable consequences. Thirdly, the existing morale in public services is to

<sup>1</sup> See *Indian Recorder and Digest*, July 1972.

some extent a reflection of the character of students in our educational institutions and the general atmosphere in the country itself. There is to be marked a lack of discipline, earnestness and industrious habits in the life of the people. Fourthly, even though the Government has taken steps for providing better emoluments in the form of higher salaries, better allowances and adequate retirement benefits, yet the feeling of discontent still persists among most public employees. Fifthly, the number of cases of nepotism and favouritism that frequently occur and the considerations of caste and religion that affect promotions and transfers are having bad effects on the morale of the services. Finally, public services have been finding it difficult to attract talented men believing in the ideals of nationalism, public service, etc.

So far as the problem of building proper morale is concerned, atmosphere in the country in general and the morale of student community in particular have to be improved. In this direction the political leaders and high administrative officers should set before others their own examples of disinterested service and hard work. It is also necessary to put a stop to undue interference in administration and the weight given to considerations of caste and religion in public services. At the same time emoluments of the services at the lower ranks and the conditions of work in general should be made better. In 1952 the Committee on Public Administration considered the recommendations of the Second Pay Commission regarding the scheme of cash awards to government employees. The Committee was of the view that it would be desirable to introduce a scheme of payment of awards in suitable form—monetary, merit certificate or special recommendations—for suggestions leading to lasting improvements in procedures or method and disposal of work in government organisations. There are at present three schemes in operation in the Government of India, which might be described as incentive schemes :

(1) In one of the ministries, a scheme for grant of incentive awards for superior performance, and for original ideas resulting in economy and efficiency has been working for nearly several years. It is applicable only to the non-gazetted clerical staff with a small provision of a sum of Rs. 3,000 per annum set apart for making cash awards. The recommendations for recording superior performance are made by the head of the division concerned and are considered by a committee of senior officers. The reward is in the form of advance increments up to a maximum of two in the time-scale of pay, without cumulative effect, and a citation. An entry about the grant of the award is also made in the record of the recipient. In the four years from 1959-60 to 1962-63, there were only two awards for original ideas, and 32 for superior performance. The strength of the Ministry in which the scheme has been working and for the

grades to which it is applicable as on 31 March 1963 was 6,465. This gives an average of 1,239 awards per thousand employees. A recent review of the working of the scheme conducted by the Department of Administrative Reforms of the Government of India led to the conclusion that while the scheme was intrinsically good, its working so far did not justify its extension in the present form to other ministries.

(2) A suggestions scheme has been introduced in all the Central Government departments since July 1964. It is open to all categories of staff—technical and non—technical—irrespective of their rank. Suggestions for improvement in organization, or job methods and procedures and suggestions for maintenance of integrity in administration are eligible for awards. Departments may themselves give a lead sometimes by indicating subjects on which suggestions would be specially welcomed such as when new procedures are being planned or existing procedures reviewed. Superior performance is not covered by this scheme. The awards can be in the form of cash grants subject to a limit of Rs. 1,500, advance increments in the time-scale of pay with or without cumulative effect, gifts of token value and merit certificates or letters of commendation. Every award is to be mentioned with brief particulars in the annual report of the recipient. Since out of turn promotion confers a permanent benefit which can be given only on the basis of consistently outstanding performance, it is not one of the forms of award under the suggestions scheme.

(3) Since 1958, a scheme of merit promotions and advance increments has been in existence in some of the scientific and technical services of the Government of India. Under this scheme, merit promotions are given to persons of outstanding merit already in service, on the recommendation of a high level board which includes members from outside the department in which the promotions are made. The promotions are limited to one grade above the grade in which an officer is employed and are further limited in such a way that the total number of officers in receipt of merit promotions at any one time in a grade would be limited to 5 per cent of the strength of that grade; a further restriction is that in any one year, merit promotions would be limited to one-fourth of the 5 per cent ceiling. The persons granted merit promotions are absorbed in the next available vacancy in the grade to which they have been promoted. But till this is possible, a special post is created for them keeping their original post in abeyance. Under the scheme for advance increments for scientific and technical officers, such increments are given to deserving persons not considered so outstanding as to be given merit promotions but who are at the same time considered fit for encouragement.

The idea has also been taken up by some of the State Govern-

ments. The Government of Andhra Pradesh decided in 1962 that a special incentive in the form of a reward or advance increment may be given for the outstandingly good work to both technical and non-technical personnel whether gazetted or non-gazetted. In order to ensure uniformity in the interpretation of the words 'outstandingly good work' and to prevent its improper use, the Government set up a small committee including an officer of the General Administration Department. The following factors which might justify the work being treated as outstandingly good were also laid down; display of energy, zeal, initiative and originality which are well above the average; adoption of procedures or methods which display thought and a sense for practical result in improving the efficiency in the department or speed in the disposal of work; specific successful action to prevent significant financial loss to Government, eschewing wasteful practices and the like.

#### IV. SERVICE CONDITIONS, EMPLOYEES' CONDUCT AND DISCIPLINE

##### SERVICE CONDITIONS

The Report of the Study Group, appointed by the British Treasury in 1947, dealt with such matters as office-building, lighting and decoration, furniture and equipment, external noise and canteens, etc. It placed particular emphasis on the need for bringing local and regional offices upto a very high standard, 'where Acts and Regulations impinge directly on the citizen,' and where the efficiency of the Central organisation is largely judged. In this category we may also include conditions regarding hours of work, holidays and leave.

Before the enforcement of Government of India's decision in regard to these matters on the recommendations of the Second Pay Commission, ordinarily a 36 hours week of work was observed. The normal office timings were 10 a.m. to 5 p.m. with half hour's break of lunch from 1 p.m. to 1.30 p.m. but on Saturdays the working hours were between 10 a.m. to 1.30 p.m. The number of holidays was 23. The Government have now reduced the number of holidays to 16 and instead of every Saturday being half, the second Saturday of the month is now a full holiday. Referring to the Government's decision on raising the number of working days, the statement issued in this connection said : 'With the improvements in the minimum remuneration and in retirement benefits, Government are confident that public opinion will support these small increases in working hours and join the Government in calling upon workers in all Government services for the maximum and uninterrupted output and increased production.'

Union Government servants in a non-vacation Department are



entitled to these kinds of leave : (a) Casual leave upto 12 days (formerly it was 15 days) in any calendar year; (b) Earned leave or privilege leave—Permanent officers earn leave at the rate of 1/11th of the period spent on duty from the date of their initial appointment. Leave can be accumulated upto a certain limit. (c) Sick leave—Leave on half pay or half average pay can be granted both on grounds of private affairs as well as on medical grounds.

In connection with other facilities the following recommendations of the Second Pay Commission may be noted : (i) Medical facilities for all Central Government employees should be placed on contributory basis, and the pattern of medical care and treatment should, whenever there is a concentration of employees, be broadly similar to that available under the Contributory Health Scheme in Delhi. (ii) Governments should have a comprehensive programme for housing their employees, Governments should encourage and assist employees to build their own houses specially on a co-operative basis, and the rent charged from the occupants of 'sub-standard' quarters, if any, should be appropriate to the accommodation provided. (iii) In the interest of Central Government employees as well as other floating population in the country, the growth of schools with common syllabus and medium of instruction and moderate fees, should be encouraged. (iv) A scheme of educational assistance, similar to the one in operation in the railways may be introduced for other Central Government employees, whose salary does not exceed Rs. 300 per mensem, to enable them to send their children to boarding schools of their choice.

The main recommendation of the Third Pay Commission in this regard may briefly be summarised as follows : The Commission recommended continuance of payment of compensatory (city) allowance in various towns. For purposes of payment of this allowance it introduced the concept of urban agglomeration as adopted for the population census of 1971. The Commission recommended payment of house rent allowance at 15 per cent of pay subject to a maximum amount of Rs. 400 in A, B<sup>1</sup> and B<sup>2</sup> class cities. In 'C' class cities the allowance is to be paid at 7½ per cent of pay subject to a maximum amount of Rs. 200. The Commission recommended that production and verification of rent receipts should be made compulsory in all cases where house rent allowance at the new rates is to be paid.

As in the railways, children's education allowance should be admissible to employees in other departments also, only if a school of requisite standard does not exist at the station where an employee is posted or on account of non-availability of accommodation in such a school. The rates of children education allowance have been fixed at Rs. 15 per month per child for primary classes and Rs. 20 per month for secondary and higher secondary classes with a ceiling of

Rs. 60 per month. The upper pay limit for payment of children education allowance and reimbursement of tuition fee have been raised to Rs. 1,200 per month.

The Commission also recommended payment of a hostel subsidy at a uniform rate of Rs. 60 per month in respect of children of government employees who are transferred in mid-term from one station to another. Recommendations were also made for payment of a subsidy for the purchase of a new set of books for the children of such employees when transfer takes place in the middle of an academic session. The amount of subsidy is Rs. 20 per child for primary classes, Rs. 40 per child for secondary classes and Rs. 60 per child for higher secondary classes. The subsidy is to be paid to employees drawing pay upto Rs. 1,600 per month.

In regard to death-cum-retirement benefits, the Commission recommended that the age of retirement of government employees should continue to be 58 years. The maximum qualifying service for pension was also increased from 30 years and the maximum pay for earning pension was increased from Rs. 1,800 to Rs. 2,500. The maximum amount of pension as recommended was to be raised from Rs. 675 to Rs. 1,000 per month. The maximum amount of death-cum-retirement gratuity as recommended was also to be raised from Rs. 24,000 to Rs. 30,000. The Commission recommended improvements in the rates of family pension to the families in cases where a government employee dies while in harness. The minimum family pension has been increased from Rs. 40 to Rs. 60 and the maximum from Rs. 150 to Rs. 250 per month.

The Commission recommended that in the case of death of an employee after a minimum service of 7 years the family pension at a higher rate should be paid to his family for a guaranteed maximum period of 7 years or till he would have attained the age of 65 years, whichever is less. Some improvements have been suggested in the amount of terminal gratuity to temporary and quasi-permanent employees. In case of death attributable to service conditions, family pensionary awards are to be rationalised and improved. The Commission also recommended the introduction of a scheme of providing an insurance cover of Rs. 5,000 to all employees on payment of a contribution of Rs. 5 per month. The Commission recommended that the rate of interest on the provident fund balances of the central government employees should be broadly comparable with the interest allowed by the nationalised banks on long-term deposits.

The working hours in administrative offices as recommended were to be raised by half an hour a day. It was recommended that no section of employees should be allowed more than 16 holidays in a year. The Commission recommended that the system of overtime allowance should be withdrawn in respect of categories of establishments to which the practice was extended subsequent to

the recommendations of the Second Pay Commission. Payment of overtime allowance under the provisions of the Factories Act, the Hours of Employment Regulations etc. should, however, continue. A system of compensatory offs and payment of honoraria was recommended for being introduced in cases of over stayal during periods of usual activity or due to unforeseen circumstances.

#### WOMEN IN SERVICE

In the U. K. at present 1/3rd of the total number of civil servants are women. They fill about half of the clerical posts, nearly 20% of the executive and about 20% of the administrative posts. The First World War gave women their opportunity, and they proved themselves equally capable. The Constitutions of India has granted equality of opportunity to all citizens irrespective of sex, in the matter of employment under the Government. Education of women is also spreading at a rapid rate and therefore the number of women in the civil services is increasing, but still their percentage is very small, particularly in the middle and higher ranks it is insignificant.

#### GOVERNMENT SERVANTS' CONDUCT AND DISCIPLINE

The grant of integrity certificates by the reporting authorities is an important matter. There is also provision for the maintenance of character rolls. The first part of the roll contains the annual report received from the Head of the Department under whom the civil servant is working. The second part of the roll is reserved for any entry which may be made under the orders of Government. Rule II of the Government Servants' Conduct Rules requires every government servant to declare all possessions or acquisition of immovable property by him or his wife or members of his family. Such a declaration has to be made on first appointment and in case of subsequent acquisitions. A government servant is also required to take an oath or make an affirmation in accordance with rules made under Articles 309 of the Constitution. Its form is: 'I... do swear or solemnly affirm that I will be faithful and bear true allegiance to India and the Constitution of India as by law established and that I will loyally carry out the duties of my office.'

Since the advent of independence, there has been a deterioration in discipline in almost all ranks of the Civil Services. This is reacting adversely on the efficiency of administration. It is necessary, therefore, to analyse the causes. One reason is the feeling of security which service under government engenders. Government employees are inclined to feel, with some justification, that minor lapses will be invariably overlooked. Even in respect of major lapses, the procedural requirements are so stringent and involved that there is always a reasonable chance of the employee getting off

lightly. A more serious factor is the case with which parliamentary or ministerial intervention can be invoked to lighten, if not to ward off altogether, any disciplinary action, and also to ventilate grievances real or imaginary. This is, in itself encouraging indiscipline. Unless a convention grows that representations pursued otherwise than through official channels will be completely disregarded, if not taken adverse notice of, it will be impossible to improve the tone of administration.

‘In dealing with the question of disciplinary action, it is necessary to balance the requirements of natural justice and security, on the one hand, with the need for speedy and effective action on the other. Any feeling that justice would be sacrificed in the interests of speed is bound to affect efficiency itself. The conception of disciplinary action should not be restricted, at present, to specific acts or omission on the part of employees, but should also be extended to take into account inefficiency, lack of initiative and interest in the performance of their official duties. Discipline should, therefore, be given a broader connotation.’<sup>1</sup>

Some of the important Rules of Conduct for All India Services are : (1) No Government servant shall, except with the previous sanction of the Government, engage directly or indirectly, in any trade or business or undertake any employment. (2) No member of the service shall speculate in any investment. (3) No member of the service shall, except with the previous sanction of the Government permit his son, daughter or dependent to accept employment with private firms with which he has official dealings, or with other firms having official dealings with the Government. (4) Save as otherwise provided in these rules, no member of the service shall, except with the previous sanction of the Government, accept or permit his wife or any member of his family to accept from any person any gifts of more than trifling value. (5) No member of the service shall, except with the previous sanction of the Government, receive any complimentary or valedictory address or accept any testimonial or attend any meeting or entertainment held in his house or in the honour of any Government servant.

Before 1 May each year every Head of Department forwards to Government in the Administrative Department concerned a confidential report in respect of each subordinate officer under his charge. The officer concerned has a right of representation against adverse remarks, but he is not to make any personal attacks and insinuations against his superior officer in the course of his representation. A departmental inquiry is made by a superior in the first instance in any case of alleged misconduct. If misconduct is found to have occurred and it amounts to an offence punishable by any

<sup>1</sup> Asok Chanda, *Indian Administration*, 139-40.

law, the authority empowered to inflict departmental punishment has to determine whether the misconduct should be dealt with departmentally or a prosecution should be instituted. When an official has been prosecuted in a criminal court and is declared innocent of the charge brought against him, the verdict is accepted as final and the man is not to be punished departmentally if the offence for which he was tried constitutes the sole ground for punishment. If, however, the official has been acquitted on technical grounds, or if the facts established by the judicial investigation show that his character or conduct as an official has been such as to make it undesirable, the head of the office to which he belongs may take departmental cognizance of such character or conduct.

Culpable neglect of duty involves liability to dismissal from government service. Similarly incompetence or gross negligence may be quite sufficient to justify dismissal in the interest of the public service, even though it may not amount to an offence punishable by law. The punishments which may be imposed on members of a subordinate service by the competent authority are : (i) censure; (ii) withholding increments, including stoppage of any efficiency bar; (iii) reduction to a lower post; (iv) recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of orders; (v) suspension; (vi) removal from service of the State which does not disqualify him from future employment; and (vii) dismissal from the civil service of the State which ordinarily disqualifies from future employment. A subordinate official who is punished departmentally is entitled, free of charge, to a copy of the order of punishment, which copy he has to file with his petition or appeal. A civil servant against whom an order inflicting any of the penalties is imposed, is entitled to appeal. Compulsory retirement does not amount to 'dismissal' or 'removal' within meaning of article 311 (2) of the Constitution, and it is not necessary, therefore, to give an opportunity to the government servant concerned to show cause against the action proposed to be taken in regard to him.<sup>1</sup>

The procedure to be observed in the case of the major penalties of dismissal, removal or reduction in rank prescribes : (1) The charge or charges should be handed over to the charged officer, who shall be required, within a reasonable time, to put in a written Statement of his defence and to state whether he desired to be heard in person ; (2) If he so desires, or if the authority concerned so directs, an oral enquiry be held in respect of such of the allegations as are not admitted. At that enquiry such oral evidence is heard as the enquiring officer considers necessary. The person charged is entitled to cross examine the witnesses, to give evidence in person and to have

<sup>1</sup> See Bibliography on Disciplinary Proceedings against Civil Servants, Lok Sabha Secretariat, New Delhi.

such witnesses called as he may wish, provided that the officers conducting the enquiry may for sufficient reasons to be recorded in writing, refuse to call a witness.

The Discipline and Appeal Rules for Central Government Employees were revised in December 1965 on the recommendation of the Santhanam Committee on the Prevention of Corruption. These revised rules contain features mainly designed to cut down delay in disciplinary procedure as far as possible within the framework of constitutional provisions and legal pronouncements. Time-limits have been prescribed for submission of the initial statement of defence, personal appearance before the enquiry authority, adjournment of a case obstructed by the conduct of the delinquent official, inspection of documents, notice for the discovery or production of documents in the possession of the Government and adjournment of an enquiry when new evidence is sought to be produced. Also, it will not be necessary now to conduct an enquiry into charges which are admitted by a Government servant.

Specific provisions have been made to ensure that orders passed in disciplinary cases are properly communicated with full reasons and connected documents, so that a Government servant may be satisfied that his case has received due consideration. Government servants are also now free to submit appeals direct to the appellate authority, and the period of limitation for submission of appeals has been reduced, so that cases may not drag on over an unduly long period. Provision has also been made in the new rules to enable the Government to set up special agencies with power to initiate, conduct and conclude disciplinary proceedings against government servants.

## V. POLITICAL RIGHTS OF GOVERNMENT SERVANTS

Public employees in India have the right to vote and form associations, but they are prohibited from participating in other political activities. Civil servants can neither become members of any political party nor subscribe to its funds. A circular issued by the Home Ministry in 1960 says : 'Government servants are, of course, expected not to take part in any political activities in any manner. Government of India, however, welcome all classes of their employees organising themselves in healthy associations for promoting their legitimate interest in matters concerning their work and welfare.' Some of the important rules of conduct prescribed for the civil servants and connected points are as follows :

(1) No government servant shall be a member of or be otherwise associated with, any political party, or any organisation which takes part in politics nor shall he take part in subscribe in aid of, or assist in any other manner any political movement or activity.

□ *Public Administration in India*/23

Rule 4 of the Central Service (Conduct) Rules lays down that a Government servant should not canvass or otherwise interfere or use his influence in connection with, or take part in any election to a legislative body. Further, seditious propaganda or the expression of disloyal sentiments by a Government servant is regarded as sufficient ground for dispensing with his service.

(2) Rule 5 of the Central Service (Conduct) Rule 1964 debar Government servants from taking part in politics. They cannot be members of any political party nor can subscribe in aid of or assist in any other manner, any political movement or activity. Rule 4 (A) of the Central Civil Service (Conduct) Rules, 1955, prohibited the participation of Government servants in 'any demonstration' or any form of strike in connection with any matter pertaining to the conditions of service. According to Rule 4 (B) of the Central Civil Service (Conduct) Rules, 1955, Government servants could not join any unrecognised service association or an association which was not recognised by the Government within next six months. But now Rule 6 of the New Central Civil Service (Conduct) 1964, prohibits the Government servants from joining only those associations, 'objects or activities of which are prejudicial to interests of the sovereignty and integrity of India or public order or morality.'

(3) Moreover, the Government servants are also subject to certain special obligations. Sections of the Official Secrets Act, 1923, prohibit the communication of any official document or information to any one whom they are not authorized to communicate. Rule 8 of the Central Civil Service (Conduct) Rules has similar provisions. In the interest of the integrity and discipline of the service, they are also prohibited to make public criticism of any policy pursued or decision taken by the Government. To ensure the security of the State, Clause 2 of Rule 5 of the Central Civil Service (Conduct) Rules requires the Government servants to endeavour to prevent any member of the family from participating or assisting in any manner or activity which tends, directly or indirectly to be subversive of the Government as established by law.

(4) The Government of India do not object to officers broadcasting talks but point out : (a) that broadcast talks by government servants are 'public utterances' within the meaning of Government Servants Conduct Rules ; and (b) the talks differ from newspaper articles in that the Government of India have undertaken that the Indian State Broadcasting Service shall not be used for purposes of political propaganda. In comparison to the United Kingdom, the restrictions imposed on the political rights of the civil servants in India appear to be unduly severe and far behind the time. With the rapid increase in the scale and scope of public employment, the civil services in India have come to employ millions of people. The Government servants today are one of the most conscious and

articulate sections of the population. To deprive all of them of any opportunity to participate in the debate on political issues which profoundly concern all would amount to 'disenfranchising' a large chunk of population.

It is right that the country should have the confidence that whatever party is in power, the services should serve the Government of the day with loyalty and devotion. According to the Second Pay Commission, 'The essential conditions for permitting civil servants to engage in political activity are an assurance that they would be able to keep their personal political affiliations and activities, and their public duties, wholly apart, and that the public would accept that such a separation could be and was in fact being made.' In the Commission's opinion such conditions do not exist in India, and therefore, 'What may be sound and feasible in a homogeneous community like that in the United Kingdom, with a long-established tradition of democratic government, may not necessarily be sound and feasible in India.' The Commission came to the conclusion that 'Change or relaxation in the existing restriction on the political rights of civil servants would not be in public interest, or the interest of the employees themselves.'

However, as regards 'non-industrial' civil servants, a beginning may be made by permitting them to participate in elections for local authorities. The Committee appointed by the State Government of Kerala to revise the service Rules, recommended granting of 'right to political activity' to civil servants of the State. This recommendation of the Committee is more or less on the lines of Britain's Masterman Committee (1948). In making the recommendations, the Committee divided the civil servants into three horizontal groups the top level officers, the middle level officers and the last grade officers. According to the Committee the top level officers, being associated with policy making, will not be allowed to take part in politics. The middle level officers will be given limited political freedom and allowed to contest elections to local bodies, while the last grade officers will be free to take part in political activities and seek election to Parliament and the State Legislatures. The Committee also recommended to liberalize restrictions on the government servants' taking part in literary activities.

#### POSITION WITH REGARD TO STRIKE

In India there was no ban on strike by public employees ; but when the Central Government employees went on a general strike in July 1960, the strike was declared illegal under the provisions of the Essential Services Maintenance Ordinance, 1960. The Ordinance authorised the Union Government to ban strikes in any essential service. 'Essential Services' as defined in the Ordinance include the Posts, Telegraphs and Telephones, Railways and other transports, !



maintenance of aerodromes, or any service which the Central Government might, by notification in the official gazette, declare to be an essential service for the purposes of the Ordinance. When Parliament reassembled in August 1960, the then Home Minister stoutly defended measures taken against the strikers on the ground of protection of the community against coercion.<sup>1</sup> Commission of Enquiry on Emoluments and Conditions of Services of Central Government Employees Report says that the Jagannath Das Pay Commission in an unequivocal language maintained that : 'It is wrong that public servants should resort to strike or threaten to do so, and that persons entrusted with the responsibility for operating services essential to the life of the community should seek to disorganise and interrupt those services in order to promote their interests. Apart from these moral aspects, there is little doubt that in Indian conditions in which there is often a possibility of eruption of indiscipline in an ugly form in one section of the community or another, a strike or even demonstration by Government servants cannot but be a factor making for indiscipline generally.'<sup>2</sup> Later, in November 1960, the Government of India took steps to ban strikes in their establishments, and more especially to ban the outsiders from holding office in Unions.

If the right to strike is to be prohibited, there should be provision of ample opportunities for expression of opinion and ventilation of grievances by constitutional methods and on democratic lines.<sup>3</sup> Finer observes : 'Constraint upon civil servants...cannot permanently operate unless the State admits constraints upon itself, or to speak less abstractly, unless the people and legislature establish machinery which will control and at need coerce ministers.' According to the same author, the substitutes to the right of strike are : (1) institutions, in which civil servants can obtain a full and proper hearing, and in which their legitimate grievances can find redress, and (2) public recognition that authority of the people, of the legislature and ministers has moral bounds, in that it must be willing to temper the doctrine of Treasury (Governmental) control and economy with justice to officials.<sup>4</sup>

The Indian Administrative Reforms Commission in its Report on 'Personnel Administration' carefully considered the question of strikes and it recommended that (1) Every Government servant should before entering upon service sign a pledge that he will under no circumstances resort to strike, and (2) The Essential Services Maintenance Act, 1968 authorising the Central Government to

<sup>1</sup> See *The Statesman*, 28 August 1960.

<sup>2</sup> See *Commission of Inquiry Report*, 541.

<sup>3</sup> *The Central Pay Commission (1946-47)*, 122.

<sup>4</sup> H. Finer, *Theory and Practice of Modern Government*, 902.

prohibit strikes in essential services and providing for penalties for persons participating in prohibited strikes or instigating and financing such strikes shall be adopted also by the State Government.

#### JOINT CONSULTATIVE MACHINERY

The objects of Whitley Councils are 'to secure the greatest measure of cooperation between the State in its capacity as employer, and the general body of civil servants in matters affecting the civil services, with a view to increasing efficiency in the public service combined with the well-being of those employed to provide machinery for dealing with grievances ; and generally bring together the experience and different points of view of the representatives of the administrative, clerical and manipulative civil service.' The scope of the National Council's functions comprises 'all matters which affect the conditions of service of the Staff' and its specific functions include 'the encouragement of the further education of civil servants and their training in higher administration and organisation.'<sup>1</sup>

The establishment of Joint Consultative Councils on the lines of Whitley Councils of Great Britain had been suggested even prior to the general strike by the Central Government employees in July 1960, but proper steps in that direction had not been taken earlier. However, after the strike, Government of India devised a scheme for consultation on problems of staff. With a view to promoting harmonious relations and of securing the co-operation between the Government and its employees in matters of common concern, and increasing the efficiency of the public service, the Government of India decided to establish a machinery for joint consultation and arbitration of unresolved differences. The scheme was to cover all regular civil employees of the Central Government except : (a) Class I services; (b) Class II Services, other than the Central Secretariat Services and the other comparable services in the headquarters organisation of the Government; (c) persons in industrial establishments employed mainly in managerial or administrative capacity, and those who being employed in supervisory capacity draw salary above Rs. 575 per month; (d) employees of the Union Territories; and (e) police personnel.

Three types of Councils, *i. e.*, National, Departmental, and Regional or Office, consisting of the representatives of the Government and its employees, were to be set up. The National Council, comprising of Cabinet Secretary as the Chairman and a leader from the staff side, will deal with matters affecting Central Government employees generally, such as minimum remuneration, dearness allowance and pay of office clerks, peons, and the lower grades of workshop staffs; as also other matters relating to categories of staff common to two or more departments and not grouped together in a single depart-

<sup>1</sup> Frank Dunnill, *The Civil Service*, 56-57.

mental council. The Council will not deal with matters of interest to employees of a single department. The Council may have two standing committees, one dealing with matters relating to non-industrial staff and the other concerning industrial staff. The Departmental Council will be headed by the official head of the Ministry or Department and will deal only with matters affecting staff employed in the department or department concerned. This Council will normally be set up for each department except in the cases of two or more small departments under a Ministry especially if the nature of duties in the departments is similar. The Regional and/or Office Council constituted under the chairmanship of the Head of the Department, where the structure of a department permits the setting up of such councils, will deal with only regional/local questions.

Among others, the Councils will deal with all matters relating to conditions of service and work, welfare of the employees, and improvement of efficiency and standards of work, provided, that (a) in regard to recruitment, promotion and discipline, consultation will be limited to matters of general principles; and (b) individual cases will not be considered. Subject to the final authority of the Cabinet, agreements reached between the two sides of a Council will become operative. In the case of disagreement the matter will be transmitted to a committee set up by the Council for further examination and report. But if a final disagreement is recorded, and the matter is one for which compulsory arbitration is provided, it shall be referred to the Board of Arbitration, if so desired by either side. In other cases, the Government will take action according to its own judgment.

If the National Council or the appropriate Departmental Council fails to resolve the dispute, the matter will be referred to the Board of Arbitration which will be appointed by the Government, under the chairmanship of an independent person, and will consist of 3 members, one drawn from a panel of 5 names submitted by the official side, one from a similar panel submitted by the staff side of the National Council. The compulsory arbitration shall be limited to (a) pay and allowances, (b) weekly hours of work, and (c) leave of a class or grade of employees and the individual cases will not be subject to such arbitration. Its recommendations will be binding on both sides; but if the Government is of opinion that all or any of the recommendations of Board of Arbitration should, on grounds affecting national economy or social justice, be modified, the Government will lay before each House of Parliament the report of the Board containing such recommendations together with the modifications proposed and the reasons therefor, and thereupon Parliament may make such modifications in the recommendations as it may deem fit. Modification may extend to the rejection of a recommendation.

## VI. RELATIONSHIP BETWEEN MINISTERS AND CIVIL SERVANTS

### CONCEPT OF NEUTRALITY AND ITS APPLICATION

The theory and practice of parliamentary government is that decisions are taken by Ministers and the Civil Servants supply the Minister with the information necessary for coming to a right decision. From this general proposition there follow certain consequences which have become accepted maxims in the United Kingdom : (1) The Civil Servant must place before his chief the arguments on both sides of the case, fully and fairly. (2) When the decision is once taken, he must loyally carry out the policy chosen, even though he may have preferred a different one. (3) The civil service is responsible for continuity of policy, or such continuity as is possible under our system of party government. (4) The civil servant must observe absolute silence and discretion as to what occurs in the office. The decision when once taken is that of the Minister or of Cabinet, and it is contrary to tradition for a civil servant to take credit for any measure accepted by Parliament, though he may in fact have been author of it.<sup>1</sup>

In India the relations between the Ministers and Civil Servants have not been, as they should be for the following reasons :

(i) Ministers do not often appreciate the value of independent advice, when such advice is unpalatable to them, they rather think that civil servants are putting hurdles. (ii) Some officers are in the habit of criticising individual ministers or their policies in private and in social circles. (iii) The right-left controversy within the Congress Party itself also played its part in not allowing the proper relations between ministers and secretaries to grow. If a particular Minister was known to be belonging to the left wing of the Congress, the senior officers attached to his ministry were very cautious in their loyalty to the Minister, because they feared that if they were very loyal to him, they would be termed as his men; and if the Minister went out and the new Minister, who took his place, belonged to the right wing, the latter would not repose his confidence in the officers who were known to be the favourites of the former Minister. This had been the unfortunate experience of many senior officers in the Union Government. (iv) There is also lack of proper understanding of their respective roles on the part of ministers and secretaries both. Ministers in their zeal have been known to interfere in the petty matters of the department; secretaries, on the other hand, put through 'half-baked' proposals before the ministers or do not bring to their notice such letters or correspondence as are of important nature. Proper relations cannot grow if either side does not appreciate the correct position, i.e. the secretary must give full facts

<sup>1</sup> Theodore Morrison, *Civil Service Tradition*, 155-56.

to the minister and the minister must have the last word. (v) Ministers' ways of dealing with certain politicians are also known to damage their relations with their secretaries. For example, sometimes the ministers are in the habit of giving an impression to the politicians, legislators and others that they (Ministers) are prepared to do a certain thing but they are helpless because the officers of their departments are putting unfavourable notes.

As a result of the above factors, the proper relationship has not grown between the ministers and secretaries. Besides, they have proved great hurdles in the way of 'civil servants' functioning as honest and independent public servants. The fact to-day is that in a good number of cases the civil servants do not act as civil servants, because they do not express their frank views for fear of consequences. We generally harp on the conventions of the British pattern, but it would be well to remember that that pattern is difficult, if not impossible, to develop in our country, because of the peculiar conditions of our country. In England the standards of personal ethics applicable to ministers and permanent secretaries are the same. In our country, people tend to judge both from different standards. What, therefore, is suggested is that we should stop harping always on the British traditions and conventions and look to our conditions to find out as to how best we can maintain harmonious relations between ministers and secretaries.

The following suggestions may be worth making in this regard : (a) Secretaries and other officers are happy, and find it easy to deal, with strong ministers who know their minds and are clear about their policies. Such ministers also realise the difficulties of the civil servants and appreciate their independent advice, and at the same time, due to the strength of their will-power and character, they turn down the Secretary's advice when it is against their objectives. (b) Confidence of the senior officers was badly shaken by Mundhra deal enquiries. The confidence once shaken has not been fully restored even to this day. Minister must take full responsibility for all that is done in his ministry, both in Parliament and before the public. It is possible only when the ministers are capable persons with high level of intelligence, intellectual honesty and moral integrity. (c) It is also necessary that the position of the Secretary as the principal adviser to the minister is restored not only in the organisation and working of the department but also in the day-to-day dealings of the ministers with the subordinate staff. Once this is done the Secretary will feel to be fully responsible for all the advice that is given to the Minister. -

The advent of coalition governments in some States after the Fourth General Election created new problems and tensions in the relationship between ministers and senior officers. Political insecurity brought in its wake increasing dependence of the individual ministers

on their supporters in the party and the ministerial group, and even soliciting of support of the civil servants. Unified direction of government business is difficult under a coalition government whose members are drawn from political parties with different ideologies. Policy decisions tend to get delayed; there is lack of coordination in operational measures and the implementation of policies and programmes suffer. Due to inadequacy of political support, ministers of coalition governments are hesitant to take responsibility for decisions and to defend the civil servants in the legislature. In such circumstances, collective responsibility of the Council of Ministers gets eroded. Some of these difficulties and drawbacks may arise even in a single-party government consisting of representatives of different factions within the party.

Many of the stresses and strains in minister-secretary relationship arise from differences in the perceptions of the ministers and of the senior civil servants of what constitutes the minister's political responsibilities. Senior Civil Servants perceive the minister's political responsibilities in terms mainly of policy-making interpreting the people to the administration, informing the public opinion, mobilising public support and co-operation and redressing grievances of the citizens. The perception of many ministers of their political role, on the other hand, would include showing of accommodation to the party interests and the interests of supporters. Here lies the genesis of the problem of political interference by ministers, which is the main cause of the present tensions in minister-secretary relationship. A minister has administrative responsibilities too. These briefly are : (i) ensuring efficient and clean administration within the department under his charge; (ii) inspiring confidence in the senior officers, securing team work, and promoting an internal effort for continuous improvement of personnel performance and methods of work; (iii) ensuring prompt and effective implementation of policies and programmes, reviewing progress periodically and resolving implementation difficulties. In shouldering these administrative responsibilities, the minister has to, and must, rely on the secretary and other senior officers.

It is not only for political reasons that ministers interfere in day-to-day administration. They also do so for obliging friends and accommodating caste and regional interests. The growth of factions within the single ruling party and the advent of coalition governments brought continuing and increased pressures on the senior civil servants for bestowing favours and concessions which ministers wished to show to their supporters and party-men. The increasing 'political' interference by the ministers obviously lowered the morale of the civil services. Civil servants were named quite a few time in discussions in the legislatures, thereby undermining the doctrine of anonymity of the civil service. There has been a growing inclination

among some civil servants to curry favour with ministers with a view to securing a suitable placement or advancement in their career, waiving of penalties imposed or likely to be imposed on them, or obtaining lucrative employment after retirement. Some senior civil servants would even try to anticipate the minister's wishes and colour their advice accordingly. One of the underlying causes for this development is that many ministers judge the civil servants not by their administrative competence but by their willingness and ability to do things which the ministers wish them to do, no matter whether these are regular or not.

The Administrative Reforms Commission pointed out: 'There is a disinclination among quite a number of Ministers to welcome frank and impartial advice.... Instances are not wanting of ministers preferring a convenient subordinate to a strong one, thereby making the latter not only ineffective but a sulky and unwilling worker.' There is said to be an increasing tendency in the States for the ministers to have direct dealings with the heads of executive departments, keeping the secretary out of the picture. Political interference has also resulted in loss of confidence of the people in getting a fair deal from the administration.

The compulsions of the political situation tempt many a minister to intervene in the day-to-day administration to accommodate the wishes of his supporters. Accommodation may be shown not only for maintaining the existing support but also for creating new support, even by obliging as large a number of citizens as possible. The big increase in the scope and size of the regulatory powers of the government over the economic activities of the people, particularly in the number and extent of economic controls, open up before the ministers a wide area for dispensing political patronage. Ministers also feel obliged to interfere in day-to-day administration under a variety of social pressures from persons belonging to their caste, community and region, who think that their minister, being in power, should be able to secure favours and concessions for them.<sup>1</sup>

The concept of neutrality has run into difficulties in the last two decades or so and the demand for a 'politicized' bureaucracy has grown on the grounds that the British 'concept' has become outmoded and outdated. The so-called 'neutrality' is really a myth and the neutrality of bureaucracy cannot be beyond criticism when the divergence of views between the ruling parties ceases to be narrow, especially when the traditional division of functions between the political masters and civil servants in terms of policy and its implementation is really more imaginary than real. And since, both functionaries are concerned with policy as well as implementation, it is impossible for any enlightened individual capable of judging

<sup>1</sup> B. S. Narula, 'Ministers and Civil Servants in a Developing Society', *Management in Government*, October-December, 1969, 58.

problems 'pragmatically' to maintain intellectual neutrality.

In order to bring about changes desired in their national societies the Nazis, the Fascists, and the Communists have limited the autonomy of the bureaucratic apparatus vis-a-vis themselves as policy makers, and severely cut down the 'impediments' of legality, *i. e.* due process of law and all other safeguards, that would in any way hamper the effectiveness, speed, or thoroughness in the implementation of their desired measures. Thus the vision of bureaucracy becoming politicized pervades every type of political system, whether liberal or totalitarian. Of course, there may be variation in the nature of politicization, but to certain extent every bureaucratic system is politicised. A recent study of the Indian bureaucracy has pointed out that the 'Indian bureaucracy has been involved in politics and political activity in a number of ways.' They were 'not only non-neutral in politics, they exercised more powers in reality than the law permits. Many times Ministers were found wanting in effectively controlling their departmental bureaucracy.' Another similar study about the relations between politicians and administrators at the district level in India has stated that 'the conventional notion of a clear-cut and clean division of functions between administrators and political leaders does not obtain in practice.'

The ARC thought that such a relationship could be regulated only if certain general considerations are accepted both by the political leaders as well as the civil servants. Both of them should clearly and sympathetically appreciate the role of the other, and attempt at a maximum accommodation of each other's view. On the part of the political executive there should be in its words : (a) a proper understanding of the administrative functions and recognition of its professional nature; (b) as little interference as possible in service matters *e. g.*, postings, transfers, promotions etc. and discouraging officers of the department to see him personally for redress of service grievances; and (c) there should be no requests for departures from declared and approved policies to suit individual cases either as a result of political considerations, or other considerations, which cannot be reduced to general principles of action.'

Similarly on the part of the services it asserts : (a) there must be a sincere and honest attempt to find out what the political head wants and make the necessary adjustment in politics and procedures to suit his wishes; (b) a readiness to fall in with his political chief in all matters, unless strong grounds indicate a different course. In such a case he should politely indicate his dissent and if he is overruled in writing, he should willingly carry out his orders; and finally, the minister usually heads a department, and it frequently happens that the head of the department and the Secretary are different individuals, frequently they differ in the advice they give. In such a case the best course is for personal discussion with both,



frequently in each other's presence, and no Secretary should consider such action as any encroachment on his personal relationship with his minister.<sup>1</sup>

It has rightly been observed that there can be no scope for conflict, if the commitment of both politician and bureaucrat is to public service, honesty and integrity. Charan Singh, the Home Minister of India, says: 'Since the entire system is governed by the rule of law and morality, no civil servant can be asked to do what is illegal or unethical. A civil servant cannot take shelter behind a ministerial order, oral or written, to defend an illegal or immoral action. He should have the courage not only to advise fearlessly but to accept the consequences of such an order. Distortions (like the ones during the Emergency) take place when there is a break-down of the moral fibre of the politicians and top civil service.

'Let it be clearly understood that the Minister, as part of the executive arm of the state, has complete jurisdiction over all matters concerning any appointments. But a good Minister will not exercise these functions except where it is in the public interest to do so. This self discipline should not be confused with jurisdiction.... The concept of constructive responsibility cannot be over stretched. If for every act of omission or commission of the administration the concerned Minister were to accept the responsibility, no Minister can remain in office even for a day. Policy, vigilance, correction and insistence on codes of conduct are the principal areas where a Minister should show courage, determination and leadership.'<sup>2</sup>

## VII. SHOULD BUREAUCRACY BE COMMITTED IN A WELFARE STATE

The Constitution of India has guaranteed to all citizens justice—social, economic and political. The state is now called upon to perform five different kinds of functions: (i) it has become a protector; (ii) it has become a dispenser of social services; (iii) it has become an industrial manager; (iv) it has become an economic controller; and (v) it acts as an arbitrator. Hence manifold activities of a democratic welfare state require administration to act as a revolutionary instrument of effectively implementing the socio-economic policies of the state. So the administration must be fully inspired by the ideal which the welfare state should constantly try to realise. In the words of P. B. Gajendragadkar, former Chief Justice of India: '... the future of democracy in this country and the success of the endeavours which democracy has been making in

<sup>1</sup> R. B. Jain, *op. cit.*, 153-70.

<sup>2</sup> Charan Singh, 'Politicians vs., Civil Servants', *The Illustrated Weekly of India*, 1 November 1977.

attaining the ideal of socio-economic equality will depend not merely on the wisdom of the legislature but on the honesty, the efficiency and the incorruptible character of the administration.'

An important factor bearing on this question is the pivotal role the civil servants are being called upon to play in an underdeveloped country like ours. The successful carrying out of tasks of various types requires on the part of the higher civil servants not only qualities of initiative, leadership, and taking of responsibility but also an emotional and intellectual integration into what may be called democratic social values, *i.e.* habits of democratic thinking and living, of subordination of sectional interests to consideration of public good. N. R. Pillai, a senior retired member of the ICS in a convocation address observed in 1953 : 'Fortunately for us, the idea of a welfare state is not in our country a controversial political issue, it is the goal laid down in the Constitution itself. Far from being a neutralist, the public servant today, and still more of tomorrow, should become rich in human sympathy and a fully awakened social conscience.'

The formulation of policy is mainly the work of ministers; but in this work they get all the expert advice and information from their administrative subordinates. While the civil servant must execute faithfully and loyally the policies of the government, his political superior should allow him full scope to shift all the available data and to come to a free and independent judgment. The minister certainly makes policy and takes final decisions on a major issue, but the civil servants has to perform highly important functions of warning and advising. As a matter of fact the formation of policy is a joint effort—the result of constant discussion. R. N. Banerjee rightly pointed out : "To discourage honest official advice is both foolish and harmful. Advisers who are merely yes-men playing upto the Minister in the hope of advancement are just as dangerous as are obstinate and obstructive no-men.... It is the duty of the civil servants to carry out the ministerial decision, and it is even more necessary in the Indian context characterized as it is by a federal system and frequent ministerial changes, particularly in the States. It may be added that any commitment on the part of civil servants to the ideology of the ruling party would only widen cleavages of opinion within the civil service, increase factionalism and strengthen the belief that some are rewarded and others penalised because of their political views. This would be highly detrimental to the morale of the civil service.

The traditional concept of political neutrality of the civil servant has been questioned on the ground that without the necessary political motivation, the civil service cannot succeed as an instrument of rapid progress in an underdeveloped country towards national objectives. Loosely this idea is conveyed, in the idiom of

sundry politicians, by the term, 'committed bureaucracy'. In his presidential address to the Bombay Session of the Congress in 1970, Jagjivan Ram, then President of the Congress, had observed : 'In a country which has stagnated for centuries and where centuries of delayed progress are sought to be compressed into decades, where the pace of economic change has to be accelerated beyond measure, the so-called neutral administrative machinery is a hindrance, not a help. The theory, moreover, is hardly relevant to Indian conditions.'

The above observation and some earlier references to committed civil servants in the speeches of the Prime Minister (wherein the emphasis was largely on merit and the spirit of dedication in civil servants) gave rise to a controversy on the subject. The following question from a memorandum by members of Parliament led to a debate in the press and journals. 'The real problem boils down to the need for building up of a fairly large group of professional experts who have a vision, expertise, sense of commitment and the requisite zeal for pursuing various new programmes. The immediate need is to fill important positions in the public sector and economic Ministries by a committed professional cadre. The need to inject new talented youngmen at various strategic levels of policy making cannot be over-emphasised. It is at this point that a host of problems has to be faced in changing the old and presently continuing pattern of manning top administrative and advisory positions by civil servants in the Government.'

Some other influential members of the ruling party also expressed a different view on the question of civil service neutrality. For example, in their note on 'Basic Economic Issue' to the requisitioned meeting of the All India Congress Committee, Chandra Shekhar, Mohan Dharia and others said : 'The present bureaucracy under the orthodox and conservative leadership of the ICS with its upper class prejudices can hardly be expected to meet the requirements of social and economic change along socialist line. The creation of an administrative cadre committed to national objectives and responsive to our social needs is an urgent necessity.'

There is no denying the fact that, on the basis of past performance, our civil service leaves much to be desired. It is true that in spite of vast increase in its numerical strength and in the cost of maintaining it, there is a general complaint that there has been a lamentable fall in its integrity and efficiency. The result is that administration at all levels is rampant with evils of all sorts; consequently, the pace of developmental activity is very unsatisfactory. But in our view, most of the ills from which public life in the country is suffering are, in a large measure, the results of the ignoble actions of our leaders, particularly in the political field. But this is beside the point.

Any commitment on the part of the civil servants to political

ideologies which keep changing so fast is fraught with the gravest danger to the stability of administration and the country itself. It is also bound to be most harmful to the interests of the people. Grounds for our opposition to this idea may briefly be stated as : (i) No political ideology can claim a monopoly of political wisdom; moreover, there is no finality about any political ideology. Take, for example, 'socialism', there are several brands of socialism. (ii) it is better to leave politics to the politicians, because commitment to one brand means rejection of others. Indian politicians have made politics such a dirty game that even well-meaning citizens prefer to keep aloof from it. (iii) In the recent past the number of splinter parties was increasing; with that trend single-party ministry and stability of government was likely to become a thing of the past particularly in some of the States. So far as the growth of our party system was concerned, we were moving fast in the direction of the French system, which is the opposite of the British system, so much cherished by us. (iv) Committed bureaucracy is an important characteristic of a dictatorial regime, particularly of the Communist states.

In a democracy commitment on the part of civil servants is possible only in a particular sense. The civil servants should be committed deeply, and they should be encouraged to remain so to a sense of discipline and hard work in the interest of the nation. It would be in the best interests of all, if they commit themselves to the high ideals of democracy and justice—both social and economic—enshrined in our Constitution. At the same time there should be a basic professional honesty, which means an ability to remain above pressures of any kind under successive regimes of varying political shades. As in France, the Civil Services in India should keep the country going, without being committed to any political ideology, but always keeping in mind the code of professional ethics. 'Their job is to give frank advice, but they must feel committed to the objectives of the State which have been approved by Parliament. They should have unreserved faith in the programmes which they administer. An official who has no active faith in secularism cannot deal with the communal problem. We must all have a commitment to the development of the country and a sense of personal involvement with the welfare of our people.'

According to Kuldeep Mathur, the essential ingredient of a committed bureaucracy is its capacity to enjoy the full confidence of party in power. The bureaucrats would hold positions only during its pleasure. This means that the bureaucrats will come and go with a political party and are as much answerable to the people as the party. The real danger in this model is that we may revert to the spoils system of USA. It can be avoided through the acceptance of certain safeguards. It is not necessary to

commit for all levels of bureaucracy but only those that are of crucial importance, who have some directive capacity, and fill in what are usually described as managerial roles. These are the bureaucrats who are most closely associated with the legislature in formulating policies. Thus a class of positions in the senior hierarchy could be created which would be filled in by the incoming political party and would be vacated when it leaves. The result of this model would be a creation of a class of people who are specialised and technically qualified and also committed to particular party platform, they provide the expertise to a political party, help in its formulation of election manifesto and when the time comes also assist in the implementation of the programme. Another implication of the model may be to break the monopoly, if IAS/ICS for all the senior positions in the administrative hierarchy. The model would entail a detailed job description and recruitment on the basis of commitment as well as competence for the job. There may be some devaluation of authority of the IAS/ICS and they may be asked to maintain the second category of permanent positions to provide stability to government.<sup>1</sup>

It does not seem desirable to accept the alternative model of political bureaucrat suggested by Professor Mathur, for it poses greater dangers of politicization rather than 'commitment' in the Indian context. It appears that the whole idea of 'committed' or 'uncommitted' bureaucracy is based on a wrong assumption that the development of either system is possible. As has been remarked earlier the values and attitudes of any bureaucracy are dependent on the kind of social, economic, political or cultural factors in which it exists and the evils or malaise are those of which it is the product.

Professor Rajni Kothari has quite appropriately observed : 'When the political party and the bureaucracy form the twin pillars of Government, the intertwining of political and administrative processes becomes inevitable. The development of healthy practices would depend here on the quality of political and administrative leadership. It would also depend on the extent to which the leadership can build up and rationalize a hierarchy and delegate power to it and thus vitalize administration all the way down and provide it with a unified outlook and a sense of oneness. The efficiency and ability of an administrative system can ultimately be judged by the extent to which it furthers the political objectives it is designed to serve.'<sup>2</sup>

In a letter to all Secretaries to the Government in August 1977, the Cabinet Secretary, N. K. Mukerji expressed the feeling that the implications of the political change in the country which brought the Janta Party to power had not been fully appreciated or incorpo-

<sup>1</sup> O. P. Motiwal, *Changing Aspects of Indian Administration*, 295-96.

<sup>2</sup> R. B. Jain, *op. cit.*, 182.

rated in the thinking and working at the official level. He, therefore, asked the civil servants to fully familiarise themselves with the political philosophy, objectives and approach of the Janta Government to economic and administrative matters which are naturally different from those of the previous government.

It has been rightly commented on the above: 'Civil servants in a democracy are expected to keep aloof from party politics, explain the pros and cons of the various options open to the government whenever their advice is sought, and scrupulously carry out a policy decision once it has been made even when it is contrary to what they believe is right. Thus the very concept of a bureaucracy committed to the party in power is alien to a democratic policy. In calling upon public servants to familiarise themselves fully with the 'philosophy' and the election manifesto of the Janta Party the other day, the cabinet Secretary, N.K. Mukerji, has unwillingly revived this concept. In all probability nothing was farther from his mind than this. Still the circular issued by him is not happily worded.'<sup>1</sup>

Referring to the criticism of the circular, Charan Singh said: 'The criticism seems to arise from a misunderstanding. After all, the elected government is guided to a great extent by the party's election promises. And the civil servants should at least know what these promises are. No one is asking them to accept the party's ideology or to be 'committed bureaucrats'. All that is required is to ensure that the civil servants know the policy of the Government. Such an understanding is essential to smoother relations and swift transaction of public business.'<sup>2</sup>

### VIII. CONCLUDING OBSERVATIONS

Personnel management in modern times has assumed much greater importance than ever before in the administrative structure of any system of Government. In a democracy, the personnel system represents two main objectives: (a) efficient and economical management, and (b) creation of a public service maintaining the ideals of a democracy.

A result-oriented, in place of a procedure-oriented, civil service is most timely. Red-tape should be eliminated and delegation of responsibility for quick decision-making is necessary. It may rightly be doubted whether the ministers are adequately committed to the public welfare. Recent politics both in the states and at the Centre deserves to be condemned. It is 'a sad commentary on the gap between profession and practice' which warrants a sincere heart-

<sup>1</sup> *Times of India*, 29 August 1977.

<sup>2</sup> *The Illustrated Weekly of India*, 1 November 1977.

searching among all concerned. 'More time is often spent in the pursuit of power rather than in the pursuit of the objectives of power.'

For political reasons, the ICS during pre-Independence days enjoyed a special status and privileges and the generalist services even today enjoy greater influence than others. It has been felt that even after Independence there has been no integration of these generalist services and compartmentalisation continues. For example, the compartmentalisation of services as Administrative, Audit and Accounts, Customs, Income Tax, etc. is considered unnecessary. The advantage of having a single Civil Service would, it is considered, far outweigh the technical refinement of compartmentalisation and would make more for mobility and healthy interaction. After initial recruitment, training programmes have only to be adjusted for this purpose. As already pointed out in section III, Asok Chanda has suggested a common Civil Service divided vertically with common competitive examination for recruitment and subsequent allotment and transfers from one department to another.

For sometime a controversy between the supporters of generalists and specialists (also known as technocrats) has been going on in the country. It is a well-known fact that our administrative system and the structure of civil service is based on the British pattern, in which the generalists have played a dominant role. Opposed to this system, there is great emphasis on the recruitment of specialists to various types of positions in the administration of the United States. The frictions that had already existed between specialists and administrators in government departments and public undertakings in India lately seem to have been aggravated. The incompatibilities between the two cadres are not restricted only to issues like disparity in wages and status. These go much deeper, and the technocrats question the very philosophy that makes them play second fiddle to the so-called 'all-knowing' civil servants. There is growing dissatisfaction among them at what they feel are out-moded administrative practices, creation of hierarchies and distortion of priorities, which affect not only their personal interests but also hinder national development.

The specialists ask why an IAS officer with little technical experience should be appointed to head a highly technical undertaking, superseding those who might have spent a life-time in gaining competence in their particular fields. The power crisis some years back in large parts of the country led to a subdued 'mini-war' between the generalists—symbolised by the IAS heading the electricity boards and the subordinate power engineers. In U. P. for instance, senior engineers had in some cases refused to attend meetings convened by IAS officers. In other places they openly denounced their 'bureaucratic overlords.' Discussions with several technocrats brought out sharply the points which agitate the specialists. The new techniques

which in the course of normal engineering development have proved their utility, are not cleared by the bureaucrat administrators except after time-consuming discussions, laborious paper work and unnecessary red-tape. The technocrats attribute this to the fact that the IAS officers are trained for a 'law and order' approach. They are unable to plan ahead and innovate, allowing things to reach crisis proportions before acting. They agree there are bright exceptions.

Irritating delays occur in explaining technical matters to non-technical Secretaries who, in turn, have to explain these to a lay minister. The process involves oral and written briefs, lengthy explanations and elucidations. Often, the specialists who are involved in actual decision-making are not allowed direct access to ministers. The technocrats see unnecessary duplication of functions in having a secretariat department sitting over them. The Cabinet order of 1957 on the constitution of the central administrative pool categorically stated that for manning senior administrative posts in the Secretariat, officers may be chosen equitably from the IAS and Class I services without any discrimination. The Committee for Plan Projects on Public Administration, headed by the then Food and Agriculture Minister, decried the traditional concept of the Secretariat having supervisory charge over executive agencies. The fourth plan document also urged the need 'to incorporate in our administration, including that of public sector undertakings, the specialist and the expert in an appropriate manner.'

The Nagarkatti Study Team of 1962 deplored the duplication of work as a result of the existence of a 'set of parallel agencies at various levels which tended to blur the extent of responsibility for decisions and gave rise to costly blunders. The Administrative Reforms Commission Report of 1967 on personnel administration admitted that there was still too much reliance on the generalist, and the technical, scientific and other specialists were not participating directly in policy formulation. It urged that 'the preference for the generalist pure and simple should give place to preference for those who have acquired competence in concerned fields.' The then Prime Minister, in her convocation address at Roorkee University in 1967, decried the lower status accorded to the specialist. 'This must change and I am going to change it', she declared.<sup>1</sup>

Engineer K. L. Rao, who was central minister for ten years said : 'The trouble with the present generalist administration is that there is no specialisation and the administrators do not remain in one place—they are incharge of steel today, petroleum tomorrow and coal the next day.' He dismissed the allegation that technically qualified people tended to have a narrow perspective and outlook and were, therefore, unsuitable for administrative jobs. Elucidating the point, he said, engineering was a discipline which required

<sup>1</sup> *Times of India*, 29 May 1973.



systematic study and application of principles. An engineer was, therefore, capable of doing things in a disciplined and orderly manner without losing sight of the objectives and social needs. About the technocrat's contention that chief engineer should be made secretary of technical department, he held that it would be the 'proper step'. 'The relegation of engineers to a 'secondary role' took place around the time 'home rule' was introduced and Indian ministers took over. Till then, engineers, heading technical departments, dealt directly with the government. But the ministers wanted somebody to assist them, possibly being new to their role as administrators. They, therefore, created generalist administrators like the Indian Civil Service and the Indian Administrative Service to 'advise' them.'

Explaining why the recommendations of the Administrative Reforms Commission and other committees regarding parity for the specialist could not be implemented, Dr. Rao revealed that the process of implementation takes time. 'When people are well entrenched in their posts, like being positioned in trenches, it is difficult to make changes.' Why so much bile has been injected into the feud is easy to see. There are deep feelings of self-righteousness on both sides. The technicians who joined the government service to man the railways, power projects, irrigation works, telecommunications and the like in the pre-independence era accepted the supremacy of the ICS without demur, because maintenance of imperial power—euphemistically called law and order—was the primary concern of the rulers of the day, and it could not be otherwise.

It is, perhaps, time that an administrator in the true sense is recognised as a specialist, or a professional as much as a doctor or lawyer. What is, in fact, needed to-day is greater 'professionalism' in administration—not in the sense of inducting doctors and technicians into that field, but a greater expertise in selected areas of administration—many of which have become important only in the last 20 years. If the ICS in the pre-independence days was largely dealing with land revenue and law and order, it was because that was primarily what the government were concerned with in those days: though, after the Montford Reforms of 1920, increasing attention was paid to nation-building activities such as Education, Health, etc.; but certainly there was little of development planning and none of the economic activity which has become so important now. For effective administration and these areas to be adequately administered, there is need for a corps of administrators who, although not specialists themselves, are able to comprehend them in discharging their traditional role of advising popularly elected ministers in policy-making.

'While we have been talking about classless services and a unified grading structure for a number of years, the Pakistan Government has already abolished the classes in its services and has enforced

a unified grading system to enable promotion to the higher posts through the range of public services for horizontal movement from one cadre to another, including movement of technical personnel to the cadre of general management. Ceylon has already introduced an uniform civil service whereas Bangla Desh is likely to follow suit. It is often pointed out that the United States, after having tried a system of position-classification, is now contemplating introduction of a generalist civil service some what on the same lines as in our country. If India has to catch up with the highly industrialised nations like USA, we have to mass produce specialists and professional managers who could take the country forward on the road to economic development. Besides, the creation of a unified civil service in India or in its neighbouring countries does not mean doing away with the generalist services.

'I would like to correct the impression, if any, created by my presentation that only if higher status and emoluments are granted to the 'Specialists', the generalists versus specialists controversy would automatically disappear. While it was not my intention to go into the question of status and salary yet it so happens that the functions, the role and the authority exercised by different groups of functionaries in the Government are often related to their status and salaries. When we talk of the role and contribution of specialists in public administration, the importance assigned to their role and the authority delegated for discharge of their functions have invariably to be considered.'<sup>1</sup>

In the existing socio-economic and political circumstances, the following suggestions should be implemented :

(1) It should be recognized that in the present-day Indian context no particular class of functionaries can claim a monopoly of managerial skills and higher administrative capacities. This recognition is in fact implicit in the Cabinet orders of 1957 and Finance Minister's announcement in Lok Sabha in 1973 that officers of all services are eligible for top Secretariat appointments. However, it is the actual implementation of these orders which has left much to be desired.

(2) It should be accepted that in a development oriented multi-disciplinary administrative set-up there can be no discrimination between functionaries on the basis of their service labels. The real distinction should be between the competent and the incompetent, between the dedicated hard worker and the time passer. This principle, although unexceptionable, is yet to be unequivocally accepted and declared by the Government.

(3) It should be recognised that if the country has to derive the maximum benefit from the services of 'Specialists' they should

<sup>1</sup> A. P. Paracer, 'Role of Generalists and Specialists in Public Administration', *I. J. P. A.*, April-June 1975, 205.

be adequately motivated. This motivation does not necessarily come from monetary incentives ; it comes from a sense of equality with others, a sense of dignity and legitimate pride in the profession and a sense of involvement in the shaping of the destiny of our country in the development of which we are all engaged. This recognition by the Government is clearly discernible in the public enterprises, but in the biggest holding company which the Central Secretariat undoubtedly is, this realisation has yet to come.

(4) We must eschew imported technology in administration. What we require is an 'indigenous administrative culture' grown out of our own national genius. We have to aim at producing a hybrid class of administrators suited to our needs such as 'administrative-technocrats' or 'engineer-administrators'. This would require a thorough revamping of the existing training procedures and the career planning and career development of services to enable a proper talent-spotting and talent-growing for top managerial assignments.

(5) The Central Secretariat should limit its functions to only policy formulation and shed all executive functions and powers which involve policy implementation. Similarly, the function of coordination in the Central Secretariat should not be interpreted to mean supervision and control. Divesting the coordinator of the responsibility to oversee the implementation will take much of the sting out of the arguments of specialists.

(6) The concept of administration should be based on a multi-disciplinary approach where the natural coordinator emerges from the team and not from a predetermined class of functionaries.

(7) The emoluments structure of all the services should be so devised that every specialist has the opportunity of rising to the highest level, even if he chooses to stay in his own stream without going in for administrative assignments.

Lastly but most importantly, the main criterion for good administration should be that it serves the needs of the taxpayer and the common man. This requires an outlook that 'job' is more important than the man who performs it, and every job must be performed by a man most competent to do it. The only way of getting the best of both 'generalists' and 'specialists' is to ensure that they go 'hand in hand' towards the common objective of good public administration, and not 'one above the other'.

The following arguments have been put forward in favour of the other side. It would not be correct to put all services on an equal footing in any system of selection for top management posts. IAS officers who have the right training, will always have an advantage over others. But in order to equip them for the tasks they are required to perform, certain changes are needed in planning their career. It cannot be denied that the 'grass roots' touch is essential for top level management posts and IAS officers should, therefore,

be made to serve as collectors for at least five years in different spells. The tendency among some of them to skip those appointments or to have short tenures there, should be stopped. We have adopted the British parliamentary system as also its administrative structure. Examples of other countries would not be of much use.

However, it may be said that the ARC report did well in underlining the need for a change in the present pattern of administration to meet the complex needs of the country. It was also right in emphasising 'specialisation' as a necessary pre-requisite for success ; it correctly regarded job analysis as an important function for an independent personnel agency which should also operate a Career Development Programme that would serve some of the objectives. There is great merit in its proposal to have a Second 'proving' test in the middle of the career for eligibility to higher managerial posts. But it seems to have erred in not recognising the continued utility of a professional administrative cadre, whose varied experiences at the subdivisional, district and state levels provide the highest policy making levels with a profound insight into the problems of rural India. This is not to deny the importance of other 'specialist' and 'technical' services ; but the ARC report in its anxiety to equalise, has not appreciated adequately the stabilising influence the civil service has provided in the past and is likely to provide in the stormy times ahead.

The administration of the technological society of the future is going to require more than anything else the professionalized generalist administrator. It is important, therefore, that the growing recognition of the importance of scientists and technologists in government and the need for rapid economic development does not lead to the replacement of the generalist by the specialist in the field of policy-making. Change is admittedly necessary but it has to be changed on defined lines. It should not have a change which radically alters an administrative system that already matches the essential needs of democratic government.

#### ESTIMATES COMMITTEE (93RD REPORT)

Its main recommendations were as follows :

(i) Government should bring before Parliament as early as possible, comprehensive legislation under Article 309 of the Constitution, regulating recruitment and other terms and conditions of service such as pay and allowances, leave, gratuity, pension, etc., of persons appointed to the services of Union Government. Commission should be appointed periodically, say, after every five years, to review the working, and terms and conditions of service, of public servants and its report should be placed before Parliament. The rules framed by Government in their discretion in pursuance of the provisions of the Constitution or any law made by Parliament governing service

conditions of public servants should be laid before Parliament and there should be a Standing Committee of Parliament which should scrutinise these rules and make a report to the Houses.

(ii) The ministries/departments dealing with technical subjects such as agriculture, science, education, economic matters etc. should be manned by officers belonging to the corresponding All India Central Services, and due stress should also be laid on specialisation of officers in different fields and that officers should not be interchanged as between different departments/ministries indiscriminately and frequently.

(iii) To avoid any suspicion of zonal or State bias in the disposal of cases at the Central Level, the Government should ensure that the bulk of officers in a Ministry/Department, particularly in senior administrative posts, do not hail from the same zone or State either by domicile or cadre.

(iv) The National Academy of Administration should not act only as a coaching institution for preparing the probationers for the prescribed examinations at the end of the term but to inculcate in them an awareness of the problems facing the country and firm determination to solve them in a most effective and expeditious manner; there should be kindled in them a spirit for quest of knowledge, a sense of patriotism and service and a desire to improve the methods and conditions of work in whatever department or capacity they may be called upon to serve. Stress should be laid on speedy attention to public grievances and effective disposal of cases because justice delayed is almost justice denied. The main emphasis in training should be to generate in the trainees an outlook of service devoid of any feelings of bossism or bureaucratic mentality.

(v) The courses for the Indian Administrative Service officers in the second part of their training at National Academy of Administration should cover in greater depth the subjects of commerce and industry with special reference to the role of small scale industries and the measures to bring about industrialisation in the country.

(vi) There should be a close coordination between the National Academy of Administration, the Indian Institute of Public Administration, New Delhi, the Indian Institute of Management, Ahmedabad and Calcutta, the Administrative Staff College, Hyderabad, the National Defence College, Delhi, and the National Institute of Community Development, Hyderabad, so that there is an integrated approach in the training of administrative officers, both initially and afterwards.

(vii) A high powered committee consisting of representatives of the Union Public Service Commission, Ministries of Home Affairs, Finance and Education and the leading research institutions such as Atomic Energy Commission, CSIR, ICAR, etc. should be constituted to go in detail into the question of recruitment of scientific personnel

so that the most promising talent is inducted into scientific institutions through a system of objective assessment.

#### FULTON COMMITTEE REPORT : U.K.

In the very opening chapter of the Report the Committee sharply pinpoints drawbacks of the Home Civil Services. It is seen as being 'still fundamentally the product of the nineteenth century philosophy of the Northcote-Trevelyan Report and inadequate in several main respects for performance of its twentieth century tasks.' Having laid down this basic philosophy the committee proceeded to highlight five major defects of the existing civil service : (1) The civil service is still based on the cult of generalist, a cult which is obsolete at all levels and in all parts of the service. (2) The system of classes leads to rigid compartmentalisation, both vertically as well as horizontally. So the present system of classes (there are over 1400) should be abolished and replaced by a single unified grading structure. (3) The specialists are not able to make their full contribution to management as well as policy making under the existing set-up. (4) Too few civil servants are skilled managers. (5) The service is cut off from the community by narrow social background and limited experience of life outside white-hall.

The remedy, as the committee saw it, lies in making the civil service more 'professional.' This goal, according to the Committee, could be achieved by changes in criteria for recruitment, improved training, greater specialization within administration, and better use of professionally qualified personnel. One of the most vital proposals of the Committee is its recommendation for unified structure of the civil service. The Committee has suggested that instead of classes there should be a continuous system of grades from top to bottom. They suggest that some twenty grades could contain all the jobs. A unified structure, according to the Committee, will remove the overtones of superiority and inferiority which the present classification possesses and which is psychologically harmful. It will also do away with the elitist status which the administrative class at present enjoys.

As a corollary to this, the Committee has urged to bring about certain changes in the recruitment policy. It is of the view that in future men and women should not be recruited for employment as generalist administrators and intelligent all-rounders but to do a specified range of jobs in a particular area of work, at least in their early years. The Committee, however, could not come to an agreement on the issue of the relevance of the subjects of university or pre-entry studies as an essential ingredient of qualification for appointment.

One of the most welcome recommendations of the Fulton Committee is on training. It has strongly expressed itself in favour of a Civil Service College. The report has also very rightly

recommended that this college should not function under the exclusive control of civil servants. Another important recommendation of the Committee relates to the creation of the Civil Service Department. The Central Civil Service Department is considered to be necessary in order to have a single-minded devotion to its own professional purpose. The Committee also recommends that the Prime Minister should be ultimately responsible for the total task of managing.

Since the structure of Indian Civil Service is based on the British system, it is very much similar to that. The defects, as pointed out by the Fulton Committee, are also found in the Indian system. It is, therefore, quite natural that the remedy suggested for reforming the British system should be equally applicable to the Indian Civil Service. The two most noteworthy recommendations are : (1) making the civil service more professional, and (2) creation of a single unified grading structure.

#### THE A.R.C. REPORT

The report of the Administrative Reforms Commission, on 'Personnel Administration' (1969) suggested that every government servant should, before entering upon service, sign a pledge that he will under no circumstances resort to strikes. It also urged the adoption of the Essential Service Maintenance Act, 1968, by the State Governments. The Commission, however, felt that there should be adequate machinery for redress of employees' grievances. With this end in view, it suggested the strengthening of the Joint Consultative Machinery and appointment of Civil Service Tribunals. But no person who is not serving under the Government should be eligible for election to the Joint Consultative Bodies, unions or associations or government servants.

Among the other major recommendations made by the Commission are : (1) A functional field must be carved out for the Indian Administrative Service (IAS). This could consist of Land Revenue Administration, exercise of magisterial functions and regulatory work in the States in fields other than those looked after by other functional services. (2) The posts at the level of Deputy Secretary or equivalent at the Central headquarters, which do not fall within a particular functional area should be demarcated into different areas of specialisms as follows : (i) Economic Administration, (ii) Industrial Administration, (iii) Agricultural and Rural Development Administration, (iv) Social and Educational Administration, (v) Defence Administration and Internal Security, and (vi) Planning. (3) The posts in the Civil Service should be grouped into grades so that all those which call for similar qualifications and similar difficulties and responsibilities are grouped in the same grade. The number of such grades may be between 20 and 25.

(4) All the Class I posts may be evaluated and assigned to, say, 9 common pay scales. These nine grades or pay scales may be divided into three levels, namely, junior, middle, and senior. (5) The Department of Personnel should undertake urgently a detailed study for the purpose of determining the grades as well as the posts to which they should be attached. (6) The recruitment to Class I Engineering posts should, as far as possible, be made only through competitive examination, and the selection after a simple interview should be restricted to cases where some prior experience or special qualifications other than the basic degree are required or where new projects are to be undertaken at short notice. (7) For the Indian Administrative Service/Indian Foreign Service and other non-technical Class I Service, recruitment should be made only through a single competitive examination, it being left to the candidates to express their order of preference for the different services. (8) The subjects to be offered at the combined competitive examination for non-technical Services may include engineering subjects as well as subjects relevant to a medical degree. (9) Provision should be made for appointment to technical posts at the senior levels of persons of proved competence from universities and industrial and commercial concerns, etc., if the capabilities and expertise possessed by them are needed and are not available within the ranks of the Civil Service. (10) There should be a provision for recruiting from the personnel of the State Governments for Central posts in organisations like the Secretariat, and the Departments of Agriculture and Education, etc. (11) Government should, with the assistance of experienced administrators and experts in training techniques, formulate a clearcut and farsighted national policy on civil service training, setting out objectives and priorities and guidelines for preparation of training plans.

(12) Senior management education and preparation should be largely oriented towards policy-making, programme planning and review, and problem solving; (13) Persons who are marked out for senior management should be attached to professional institutions for pursuing the programmes of advanced study. Part A of this programme may be arranged with the assistance of the Indian Institute of Public Administration; and Part B at other institutions like the Institute of Management at Ahmedabad and Calcutta, Administrative Staff College, Hyderabad, the Institute of Economic Growth, etc. which specialise in the area which would be of interests to the officials concerned. (14) Departmental Promotion Committee should be constituted, wherever they do not exist now, for appraising the merits of the persons concerned for promotion. (15) The annual report may be called 'Performance Report' instead of 'Confidential Report'.

Its most important recommendation is that functional services



must be constituted by grouping together posts in a particular function wherever the numbers are viable; a functional field must be carved out for the Indian Administrative Service consisting of land revenue administration, exercise of magisterial functions and other regulatory work in the States in fields other than those looked after by other functional services. A connected recommendation is that the senior posts at the central headquarters should be developed into areas of specialism like finance, defence, economic administration, industrial administration, planning, agriculture and rural development, social and educational administration and personnel administration, *i.e.*, in so far as the posts do not fall within another functional area. Equal rewards for like responsibilities is another crucial recommendation which the ARC made. This means that posts in the civil service should be grouped into grades so that all those which call for similar qualifications and similar difficulties and responsibilities come in the same grade and scale of pay.

For the first time since independence, an attempt is being made by the Union Government to evolve a new personnel policy on the lines recommended by the Administrative Reforms Commission some years ago. To facilitate the task, a high-level advisory council on personnel administration was set up under the chairmanship of the Minister of State in the Ministry of Home Affairs. The new council will advise the government specifically on policy matters in personnel administration, specially with a view to acting as a 'feeder line of new idea and thinking in this field'. So far, personnel policies were being shaped largely by officers belonging to the ICS and IAS. There had, as a result, been considerable resentment and frustration among personnel in other services. The advisory council will also consider and recommend broad lines of policy in the field of personnel administration and advise on matters specifically placed before it by the government for consideration. Strangely, however, no representation has been given to employees even though the Government has been urging private and public sector undertakings to include representatives of workers on their boards of directors. The two major employers in the government—Railways and Posts and Telegraphs Department—have also not been given any representation in the advisory council. There is none in the council who can be said to have had some acquaintance with either of these two departments. Evidently, it is hoped that the interests of people from services other than the ICS and IAS will be taken care of by specialists drawn from public and private sector organisations. One of the members of the council is the Director of the Indian Institute of Public Administration, whose appointment itself has been the subject-matter of controversy between generalist and specialists in government service.

## CHAPTER XV

# FINANCIAL ADMINISTRATION

Finance and Administration are in fact inseparable. Every administration has its financial implications, either creating a charge on the treasury or making a contribution to it. Nothing can be done without expenditure of money. Available financial resources set a maximum limit on administrative activity as a whole and on each of its separate parts. The management of finances, therefore, is one of the first and one of the inescapable responsibilities of administration. Fiscal management includes all operations designed to make funds available to officials and to ensure their lawful and efficient use. Its principal sub-divisions are : budget-making, followed by the formal act of appropriation ; executive supervision of expenditure (budget execution) ; the control of the accounting and reporting system ; treasury management and revenue collection ; and audit.

Finance is the supply of fuel for the engine of administration ; so it has rightly been called the 'life-blood of government'. 'A sound state of finance is of paramount importance to the public health of a nation.'<sup>1</sup> It is for this reason that 'among the specific problems of public administration none exceeds in importance that of the establishment of an orderly and efficient system for the handling of the financial affairs of the Government.'<sup>2</sup> Financial administration is of much greater importance today than ever before, because there has been a very marked increase in the amounts of money collected and spent by the administration in the present-day world.

Financial administration may be looked at from two points of view—political and technical. Looked at from the former point of view, it involves such important considerations as the relative parts played by the executive and the legislature in the formulation, adoption and execution of financial policies. Thus, financial administration includes four important operations : (i) planning, (ii) determining, (iii) executing, and (iv) controlling. Looked at from the technical point of view, financial administration has to deal with a number of practical questions which will be discussed in the chapter.

<sup>1</sup> Gyan Chand, *The Financial System of India*, 1.

<sup>2</sup> W. F. Willoughby, *The National Budget System*, 1.

## I. GROWTH OF THE FINANCIAL SYSTEM

The policy of centralisation of all authority pursued by the Government of the Company had led to the complete subordination of the Provincial Governments to the Centre, during the middle of the last century. Even though, after the transfer of Indian administration from the Company to the Crown in 1858, a policy of decentralisation was followed in other spheres, yet by that time no change in the policy of centralised finance was introduced. Such a system continued upto 1871. It suffered from these grave defects : (i) The distribution of public income among the Provincial Governments every year degenerated into something like a scramble in which the most violent had the advantage ; (ii) as local autonomy brought no local advantage, the stimulus to avoid waste was reduced to a minimum ; and (iii) as no local growth of income led to local means of improvement, the interest in developing the public revenue was also brought down to the lowest level.

### EVOLUTION OF THE SYSTEM OF SETTLEMENT

To remove some of the above defects Lord Mayo's Government in 1871 took the first step towards 'financial decentralisation'. It attempted to make the Provincial Governments responsible for the management of their own finances. Each Government was given a fixed grant for the upkeep of definite services such as police, jails education and the medical services with power to allocate it as seemed best and also to provide for additional expenditure by the exercise of economy and, if necessary, by raising local taxes. In 1877, Lord Lytton's Government carried the process a step further by transferring additional heads to the Provincial Governments. These were : Land Revenue, Excise, Law and Justice, General Administration and Stamps. In 1882, Lord Ripon's Government introduced two main changes : *Firstly*, the heads of revenue were divided into three main categories : (a) Imperial heads—Customs, Salt, Opium, etc. ; (b) Provincial heads—Departmental Receipts under Provincial heads of Expenditure and Provincial taxes ; and (c) Divided heads—Excise, Stamps, Forests, Registration etc. *Secondly*, the settlements were to be made thereafter not annually but every five years. In 1904, Lord Curzon's Government declared these settlements as 'quasi-permanent'. The Royal Commission on Decentralisation presented its report in 1909. After making certain changes in the recommendations of the Commission, Lord Harding's Government, in 1912, made the 'settlements permanent'.

### POSITION BEFORE THE REFORMS OF 1919

The two chief features of the financial system upto 1919 were : (1) The Secretary of State for India exercised supreme control over all financial matters. (2) The system, besides being unitary, was a

unified and co-ordinated whole. The various heads of revenue were classified as Central, Provincial and Divided. The Central heads included Customs, Salt, Opium, Railways, Posts and Telegraphs; the Provincial heads included Police, Education, Registration, Medical Service, Minor Irrigation etc.; and the Divided heads were—Land Revenue, Excise, Income Tax, Stamps, Forests and Major Irrigation Works. The receipts from the first and second went respectively to the Central and Provincial Governments; while income from the third was shared equally by the Central and Provincial Governments. The Provincial Governments had no independent powers of taxation or of borrowing and there was a strict Central budgetary control over the Provincial Governments. The existing financial arrangements contained some glaring defects, e. g., the divided heads were a veritable bone of contention and led to interference by the Central Government in provincial matters ; provincial inequalities and jealousies led to extravagance and mutual recriminations; and the Provincial Governments were yet too subordinate to the Central Government.

#### BETWEEN 1919 AND 1936

By the Government of India Act, 1919, the 'divided heads' were abolished and the rules made under the Act made a clear distinction between the Central and Provincial heads. The former included Customs, Military Receipts, Income Tax, Railways, Posts and Telegraphs, Salt, Opium, etc.; and the latter included Land Revenue, Stamps, Registration, Excise and Forests, etc. The Provincial Governments were authorised to impose taxes on their own authority, on matters classified as Provincial and were empowered to frame their own budgets. Restricted powers of borrowing money were also conferred on the Provincial Governments, which thus got limited independence in the field of finance. As under the new arrangements the Central Government was to have deficit in its budget, it was provided that the Provincial Governments would make contributions to the Central Government to make for its deficit. The amounts of contributions payable by different provinces were fixed by the Meston Committee. A beginning had been made in the direction of establishing popular control. The absolute power of the Secretary of State was diluted by a mild admixture of the financial powers of reformed Legislatures.

#### FEDERAL FINANCE UNDER THE ACT OF 1935

The basic principles of federal finance have been stated by authorities as (1) The sources of revenue and heads of expenditure should be allocated by the Constitution itself; (2) There should be a rigid distribution in order to avoid any possibility of encroachment and overlapping jurisdiction; (3) The distribution of the sources of revenue should be in keeping with the division of legislative powers between the Governments of the Federation and of the units; (4) The

arrangements decided upon should secure adequate funds to each government and should be conducive to administrative convenience and economy. But the principles adopted in the case of Indian Federation were : (a) The sources allocated to the Federation were adequate and elastic; (b) provinces were granted financial autonomy which was not complete. This led to an increase in their revenues ; but their sources of revenues were still inadequate for their growing needs; and (c) the system of subventions, *i.e.*, grant of financial help from the Centre to the Provinces was also adopted.

'No proper principles of scientific classification and distribution were at work. Not all the direct taxes were assigned to the provinces, nor all the indirect taxes to the Federation. The scheme of division was rather the outcome of historical tradition and immediate expediency than any logical principle of financing for a federal system.' Another grave defect was that the system gave inadequate sources of revenue to the provinces to meet their growing expenditure on nation-building activities and development of existing services. 'in the aggregate : it is impossible not to notice the fact that while all the progressive or elastic and productive sources of revenue are reserved for the Federal Government, all the inelastic and obviously burden some items are assigned to the Provinces.'<sup>1</sup> However, this defect was sought to be removed by the system of subventions. The Niemeyer Committee was appointed for the purpose of estimating the deficits of the various provinces and making its recommendations. It recommended that the Central Government should give financial aid to the provinces to the extent of their deficits.

*Distribution of the Sources of Revenue under the Act of 1935 :*

(a) Federal Sources of Revenue comprised customs duties ; contributions from the railways and receipts from other central commercial undertakings ; coinage, profits and share in the profits of the Reserve Bank ; corporation tax (otherwise known as super tax on companies) ; taxes on income (other than agricultural) ; salt and excise duties ; duties on succession to property (other than agricultural), etc. (b) Provincial Sources of Revenue included land-revenue, irrigation, excise duties on alcohol narcotics and drugs, forests, provincial undertakings, etc.

*Financial Adjustments.* The Government of India levied, collected and appropriated the revenues secured from taxes included in the Federal Legislative List, but subject to the following modifications : (1) The net proceeds of certain taxes *e. g.*, duties in respect of succession to property, stamp duties, terminal taxes on goods or passengers carried by rail or air, and taxes on railway fares and freights, were handed over to the provinces. (2) The net proceeds of certain other taxes – duties on salt, federal duties of exercise and export duties, might be 'entirely or in part' handed over to the provinces. (3)

<sup>1</sup> K. T. Shah, *Federal Structure*, 413.

A percentage of the net proceeds of the receipts from 'income-tax' was handed over to the provinces. (4) Certain provinces were given 'Annual Cash Subvention' or grants-in-aid as recommended by Sir Otto Niemeyer. In addition, the provinces also got the right to borrow money on the security of their own revenues, within such limits as might be fixed by the Provincial Legislatures. But a province might not borrow outside India, without the consent of the Central Government; and all loan operations of the Provincial (as well as Central) Governments were to be conducted through the Reserve Bank of India.

*Budget Procedure.* The Government of India Act, 1919 created a bi-cameral legislature in the Centre. However, the powers of the legislature were very much restricted in the field of finance. All proposals for taxation, *i. e.*, for raising the revenues were embodied in a Finance Bill which originated in the Assembly. In case the Bill was rejected by one or both Chambers, the Governor-General exercised his power of certification. This power was not used rarely as a reserve power; rather its use was a normal feature. The two Houses were empowered to discuss the Budget; but the Legislative Assembly alone possessed the right of voting on the demands for grants for the various spending departments of the Central Government. One notable feature of the various heads of expenditure was their division into votable and non-votable.

The Assembly could either refuse a demand for grants or reduce it; however, it could not increase it. The members might move token cuts to raise discussion and criticise the policy of the government but the Governor-General was empowered to restore the grant whether refused or reduced. From this one thing is quite evident, that the Council of State did not enjoy equal powers in regard to finance, in other respects its powers were co-ordinate with the Assembly. Regarding the stages of the Budget the rules of the Indian Legislature prescribed that the Budget was to be dealt with by the Assembly in two stages, namely: (1) general discussion, and (2) the voting of demands for grants. The Government of India Act, 1935, made important changes both in regard to the constitution and powers of the Federal Legislature; but since for various reasons Indian Federation could not come into being, the old Legislature continued to function with certain necessary modifications up to 1947.

## II. FINANCE UNDER THE CONSTITUTION OF INDIA

Financial provisions in the Constitution of India are more or less on the lines of those contained in the Government of India Act, 1935. The Sources of revenue have been distributed between the

Union and the States. But the States, in addition to retaining the entire proceeds from the heads allocated to them, may also get a share in the proceeds of some of the heads of revenue which fall within the jurisdiction of the Union. The main sources of revenue of the Union Government are : customs, excise duties on tobacco and all other goods produced in India (except alcoholic liquors, opium, Indian hemp, etc.), taxes on capital value of companies. The Union Government has power to raise money by taxes on items from 82 to 92 as given in the Union List of 7th Schedule.

The main sources of revenue of the States are : land revenue, taxes on agricultural income, duties on alcoholic liquors and drugs, etc., tax on electricity consumption, taxes on vehicles, taxes on professions and trades, taxes on business, taxes on amusements, entertainment, betting and gambling, stamp duties, taxes on the sale and purchase of goods other than newspapers, taxes on advertisements other than those published in the newspapers, etc. The State Governments have power to raise money by the taxes on items from 45 to 63 mentioned in the State List of 7th Schedule. Apart from these specific heads of taxation assigned to the Union (for the sake of uniformity) ; there are taxes whose entire proceeds are handed over to the States and there are certain other taxes which are levied and collected by the Union, but whose proceeds are shared between the Union and the States.

*Firstly*, the Government of India levies such stamp and excise duties on medicinal and toilet preparations, as are mentioned in the Union list, but they are collected by the States within which they are levied, except in the Union Territories, where they are collected by the Government of India directly. The proceeds in any financial year of any such duty levied in any State do not form part of the Consolidated Fund of the Union, but are assigned to that State. Duties and taxes included in this category are duties in respect of succession to property other than agricultural land, estate duty, terminal taxes on goods and passengers carried by railways, sea or air; taxes on railway fares and freights ; taxes on sale or purchase of newspapers and on advertisements published therein.

*Secondly*, there are certain taxes levied and collected by the Union and distributed between the Union and the States e.g., taxes on income other than agricultural income. Such percentage, as may be prescribed of the net proceeds in any financial year of any such tax is to be assigned to the States within which that tax is levied in that year, and is to be distributed among those States in such manner and from such time as may be prescribed, by order of the President on the advice of the Finance Commission.

*Thirdly*, there are certain taxes which are levied and collected by the Union and may be distributed between the Union and the States. Union excise duties, other than those on medicinal and

toilet preparations mentioned in the Union List, are levied and collected by the Union Government, but if Parliament so provides, the whole or part of the net proceeds thereof, shall be distributed among the States in accordance with the law made by Parliament.

*Fourthly*, Grants in lieu of export duty on jute and jute products—'Grants-in-aid' in the prescribed manner are paid out of the 'Consolidated Fund' to the States of Assam, Bihar, Orissa and West Bengal in lieu of their share of the net proceeds in each year of export duty on jute and jute products.

Prior recommendation of the President is required for introducing Bills affecting taxation in which States are interested. A bill or amendment imposing on varying any tax or duty in which States are interested or which affects the principles on which under the foregoing provisions of Chapter I of part XII, moneys are or may be distributable to States, or which impose a surcharge for the purpose of the Union as aforesaid, cannot be introduced or moved, except on the recommendation of the President. (Article 274)

*Grants from the Union to certain States.* Parliament may make law to determine sums to be charged on the Consolidated Fund of India as grants-in-aid to the States that may be in need of assistance. Capital and recurring sums may be paid as grants-in-aid to the States as may be deemed necessary to enable them to meet costs of schemes of development that may be undertaken by the States with the approval of the Government of India to promote the welfare of the Scheduled Tribes and to raise the level of administration of the Scheduled areas therein to the general level in the State. There is further provision for grants-in-aid to Assam in respect of the administration of tribal areas.

*Borrowing etc.* The Union and the State Governments, subject to limits set from time to time by their respective legislatures, can borrow upon the security of their respective Consolidated Funds. It is further provided that subject to conditions to be laid down by Parliament, Union Government may make loans to the States or so long as limits above mentioned are not exceeded, give guarantees for loans raised by a State. (Article 293). On the basis of the above, it may be said that so far as the division of financial powers between the Centre and the States goes, the Indian system has possibly more practical rationalism and logic behind it than the system of any other federation. Indians have profited from the experience of other federations so far as the distribution of income-tax is concerned. Moreover, the financial powers in India have been clearly demarcated as laid down in the three lists attached to the 7th Schedule. Finally, the provision for a Finance Commission every five years to study the relationship between the financial needs and resources of the Centre and the States is a guarantee that the question would revive independent and regular periodical attention.



## FINANCE COMMISSION

Within two years from the commencement of the Constitution and thereafter at the expiration of every 5th year or at such earlier time as the President considers necessary, he may constitute a Finance Commission, consisting of a chairman and four other members to be appointed by him. Under Article 280 (3) of the Constitution, the Commission is required to make recommendations to the President in regard to (a) the distribution between the Union and the States of the net proceeds of taxes ; and (b) the principles which should govern the grants-in-aid from the Centre to the States, and (c) any such other matter which the President may deem necessary.

*Report of Fourth Finance Commission.* The Government of India accepted the majority of the recommendations of the Fourth Finance Commission. In accordance with the recommendations, the States' share of income-tax was increased to 75 per cent of the total proceeds (from  $66\frac{2}{3}$  per cent), and the share of each State continued to be determined on the existing basis of 80 per cent on population, and 20 per cent on collection. In respect of excise duties, there was no change in the share of each State, i. e. 20 per cent of the actual collection, but the States got a share of excise duties on all commodities, instead of only 35 commodities, as at that time. The States got the net proceeds of estate duty on property, other than agricultural land (except those attributed to Union Territories, the share of which has been enhanced from one to two per cent), as well as grant in lieu of the loss suffered by them following the abolition of tax on railway passenger fares. The distribution of the grant continued to be based on the principle of compensation, so as to place the States broadly on the same footing as they were before the tax on railway passenger fares was abolished.

*Report of Fifth Finance Commission.* A generally higher share of divisible Central Revenues accrued to States and Union Territories during the five-year period commencing from the current financial year, according to the decision of the Union Government on the final report of the Fifth Finance Commission. Although the precise financial implications had not been mentioned in the report, it was expected that the States and Union Territories would generally receive more, while backward and strategic border States like Jammu and Kashmir and Nagaland would receive more as grants under the Finance Commission's new scheme of allocation of Central revenues.

One of the important recommendations of the Commission was that the Centre should examine the question of levying a tax on advertisements in newspapers, its rate structure and exemptions. The Government accepted this recommendation also. The recommendations of the Commission covered the period of five years beginning from 1 April 1971. In its interim report submitted in

October 1968, the Commission had made recommendations regarding distribution among the States of estate duty and grant in lieu of the tax on railway passenger fares. In the final report, in addition to the sharing of income-tax and Union excise duties distribution of additional excise duties and payments of grants under Article 275(1) of the Constitution, the Commission had made recommendations on two other matters referred to it, namely, scope for raising revenue from taxes and duties mentioned in Article 269 of the Constitution but not levied at that time and scope for raising additional revenue by the various State Governments.<sup>1</sup>

*Sixth Finance Commission.* The Government of India appointed the Sixth Finance Commission in June 1972. The five-man commission had two part-time members and two full-time members, besides a Joint Secretary in the Prime Minister's Secretariat, who acted as Secretary of the Commission. Apart from its normal statutory functions, the Commission, for the first time, was asked to assess the non-Plan Capital gap of the States on a uniform and comparable basis for five years ending 1978-79. Again, for the first time, the Commission was also to review the policy and arrangements in regard to financing of relief expenditure by the States affected by natural calamities. In this context the Commission might examine the feasibility of setting up their own pockets. The Commission noted that in the past the States had scrambled to raise wages and allowances the moment a finance commission was appointed in the expectation that this entire expenditure would be made good by extra devolution. This time the Commission did not cover all actual increases; instead it used a complicated formula which made it quite unprofitable for the States to jack up their wage bills.

The devolution of funds to the states in the fifth Plan had been estimated at only a little over Rs. 4,000 crores. The big increase in the fifth Plan was largely on account of the expected rise in total tax revenues; for the share of the States had gone up only marginally. The high figure of Rs. 2,510 crores as grants-in-aid was partially explained by the fact that economically non-viable States like Tripura, Manipur and Meghalaya had to be subsidised almost entirely by the Centre as had been the case in the past with Nagaland and Kashmir. These five States between them would appropriate no less than Rs. 919 crores of grants-in-aid though their population is only 1.63 per cent of the national total. Seven States did not get any grants, because they were prepared to have a revenue surplus. These were Maharashtra, Punjab, Haryana, Madhya Pradesh, Karnataka, Tamil Nadu and Gujarat.

The Finance Commission stressed that even after the huge devolution recommended by it the States would have to strain hard to mobilise additional resources in order to meet Plan requirements.

\* I. I. P. A., *Newsletter*, September 1969.

It commented adversely on the reluctance of the States to levy water and power rates at a level which could bring in sufficient funds for re-investment. The Commission recommended the devolution of Rs 7,099 crores of tax revenue to the States in the Fifth Plan. The Government accepted all the recommendations. Even after the massive devolution of tax revenue, 14 of the 21 States had a deficit in their non-plan expenditure amounting to no less than Rs. 2,510 crores. This puts in perspective the deterioration in the finances of several States. To make good this shortfall the Commission recommended that grants-in-aid under article 275(1) of the Constitution should be given to the deficit States to bridge their entire non-Plan gap. Thus any additional resources mobilised by them would be available for Plan expenditure.

The Commission recommended debt relief totalling Rs. 1,970 crores for the States. Some weightage had been given to the States whose debt liability was high in relation to their total tax revenue. The State's share of income tax had been raised from 75 to 80 per cent. Their share of excise duties had been maintained at 20 per cent. Auxiliary excise duty, a new form of levy introduced in the current budget, was shared with the States on the same basis as excise duty from 1976-77 onwards. There was to be no change in the principles of distributing estate duty and grants in lieu of the abolition of the tax on railway passenger fares. Grants on account of agricultural wealth tax would be in proportion to the assessed agricultural wealth in each State. The criterion for sharing excise duty among the States had been altered marginally. The weightage given for backwardness had been increased from 20 to 25 per cent and that for population had gone down from 80 to 75 per cent. The Commission had estimated that an amount of Rs. 838 crores was needed to upgrade social and administrative services in backward States to the average level aimed at during the fifth plan.

The Union government announced on 24 June 1977 the constitution of the *Seventh Finance Commission* under the Chairmanship of J. M. Shelat, former judge of the Supreme Court. Its other members are Dr. Raj Krishna, member of the Planning Commission; Dr. C. H. Hanumantha Rao, Director of the Institute of Economic Growth (both part-time members); and H. N. Ray, Finance Secretary (Part time member till July 1); Y. B. Eswaran, Officer on Special Duty in the Finance Ministry will be the member-secretary.

The award of the Commission will cover the sixth Plan period from 1979-80 to 1983-84. Accordingly, it has been asked to submit its report by 31 October 1978, so that it becomes available well in time for finalising the financial projections for the Sixth Plan as well as the budget for 1979-80. As in the case of the last Commission, a member of the Planning Commission has been associated with the Finance Commission to facilitate coordination between the two

**Commissions.** The Commission will determine and recommend the sums to be paid to the States, which are in need of assistance, by way of grants-in-aid of their revenues. The Commission will also take into consideration the requirements of backward States to raise the level of their general administration and upgrade the standards in non-developmental sectors and services with a view to bringing them to the level obtaining in the more advanced States over the period ending 1983-84.

In making its recommendations, the Commission shall take cognizance of the resources of the Union Government and the demands on such resources as well as the present practice in regard to determination and distribution of assistance from the Union Government for financing the State plans. Among other things, the Commission will also take into consideration the requirements, on revenue account, of the States, to meet the expenditure on administration and other non-plan commitments and liabilities, keeping in view the national policies and priorities, and the requirements of backward States to raise the level of their general administration and upgrade the standards in non-developmental sectors and services with a view to bringing them to the level obtaining in the more advanced States over the period ending with 1983-84. The scope for better fiscal management and economy in expenditure of the States, consistent with efficiency, and also the need for ensuring a reasonable return on investments in irrigation and power projects, transport undertakings, other industrial and commercial enterprises, etc., are also matters which the Commission shall take into consideration in making its recommendations.

Under Clause (c) of Article 280 (3) of the Constitution, the Seventh Finance Commission, like the earlier Commissions, has also been asked to suggest changes, if any, to be made in the principles governing the distribution, among the states *inter se*, of the net proceeds of estate duty on property other than agricultural land, additional excise duties, in replacement of States' sales-tax, levied and collected on cotton, woollen, rayon or artificial silk fabrics, sugar, tobacco—including manufactured tobacco—as well as the grant-in-aid to be made available to the States in lieu of the tax on railway passenger fares and the grant-in-aid in consideration of the collection of wealth tax on agricultural property.

In making its recommendations, the Commission will adopt the population figures of 1971 in all cases where population is regarded as a factor for determination of devolution of taxes and duties and grants-in-aid. The President's Order also provides that : (i) the Commission may make an assessment of the non-plan capital gap of the States on a uniform and comparable basis for the five years ending with 1983-84. In the light of such an assessment, the Commission may undertake a general review of the States' debt

position with particular reference to the loans advanced to them by the Central Government, and likely to be outstanding at the end of 1978-79, and suggest appropriate measures to deal with the non-plan capital gap; and (ii) the Commission may review the policy and arrangements in regard to the financing of relief expenditure by the States affected by natural calamities and suggest modifications, as it considers appropriate, in the existing arrangements, having regard to all relevant considerations including the need for avoidance of wasteful expenditure.

The income tax amount assigned to the States which was Rs. 52·7 crores in 1951-52 went upto Rs. 359·1 crores in 1970-71. Thus during the period of 20 years, it became almost seven-fold. According to the latest budgetary estimates, this was going to be of the order of Rs. 460·9 crores in 1972-73. But, relatively speaking, the share of income-tax transfer in the total tax transfer, which was as much as 98·2 per cent in 1951-52 declined to 47·7 per cent in 1970-71, *i.e.* Rs. 359·1 crores out of the total transfer of Rs. 755·7 crores. Thus, relatively, the income-tax proceeds which the States get from central tax pool, is losing its importance in the total tax transfer and its place is taken by share from the Union excise duties. This is due to the fact that the revenue from the Union excise duties has relatively become more elastic than the revenue from income-tax. While income tax revenue in the Central budget, which was Rs. 132·7 crores in 1950-51 increased to Rs. 473·2 crores in 1970-71, *i.e.* almost about 3·6 fold, the receipts from the union excise duties, which amounted to Rs. 67·5 crores in 1950-51, increased to Rs. 1758·6 crores, *i.e.*, more than 26 times higher than that in 1970-71. As a result, the receipts of the States from union excise duties have increased considerably.<sup>1</sup>

### III. FINANCIAL (BUDGET) PROCEDURE

Under Article 112 of the Constitution, the President is to lay in respect of every financial year before both Houses of Parliament a statement of the estimated receipts and expenditure of the Government of India for the year. This is what is called the Budget; technically speaking, it is the annual financial statement. The budgetary process as a whole may broadly be divided into two phases; first, preparation of estimates; and second, budget in the legislature. we shall summarise here these two phases of the Indian budget. The legislative control over expenditure will be discussed later.

#### PREPARATION OF THE ESTIMATES

The four agencies that participate in this task are : (i) The

<sup>1</sup> Himat Patel, 'States Share in Income-tax Revenue', *I. J. P. A.*, April-June 1976, 294-95.

Finance Ministry; (ii) the administrative Ministers; (iii) the Planning Commission with which the Finance Ministry remains in close touch so as to incorporate plan priorities in the budget; and (iv) the Comptroller and Auditor General, whose department supplies the accounting skill required for the purpose. The preparation of the estimates begins in July or August of the preceding year when the Finance Ministry supplies 'skeleton forms' to the administrative ministries and the Heads of Departments for estimating their requirements. The departmental officials prepare the estimate for the next financial year on the basis of the 'revised' estimates for the current year and their work is completed by October of the current year. The annual estimates of expenditure are presented to the Lok Sabha in the form of Demands for grants. The Demands are generally prepared Ministry-wise. Under each Demand details of expenditure are given under the heads of 'Pay of Officers', 'Pay of Establishment', 'Other Charges', 'Works', 'Stores and Equipment' etc.

#### THE ESTIMATES OF EXPENDITURE

These are divided into two parts : the first part shows the fixed or standing charges, and the second part shows the new or fresh charges proposed to be included for the coming financial year. Moreover, these estimates are built up from bottom upwards. Every spending unit prepares its forecast of expenditure based on past experience in respect of recurring expenditure and future anticipations in respect of non-recurring expenditure involving the implementation of new schemes or carry-over of schemes already approved. As a result of the new financial procedure adopted since 1959 it has been enjoined that no provision should be made in the budget unless the scheme has been worked out in sufficient detail so as to provide for necessary scrutiny. In those cases where necessary details are not available or cannot be worked out before the budget and where some provision is necessary, some token provision may be made in the budget.

Moneys required by state enterprises are given in the shape of releases to the company as share capital, and it is for the company to regulate its expenditure. The administrative Ministry prunes the demands of its subordinate offices and forwards them after consolidation to the Finance Ministry. It examines very closely all proposals for a new or on-increased charge on the Government. Its six expenditure divisions are accredited to individual Ministries or groups of Ministries, and the divisions concerned scrutinise their proposals. One Financial Adviser is attached to each Ministry, and he, being a junior officer of the Finance Ministry, works in very close liaison with the administrative Ministry concerned. In this capacity as the accountant to the Government, the Comptroller and Auditor-General also plays an important part in regard to budget

estimates. He has under him an Accountant-General for Central Revenue and an Accountant-General for each State. One copy of the departmental estimates has to be sent to the Accountant-General concerned. When the comments of the Accountant-General have arrived, the Finance Ministry has the view-point of the administrative department, as well as the technical accounting view-point with it, and proceeds to frame the rough budget forecasts of expenditure by the end of December. After that administrative Departments and the Finance Ministry may include last-minute projects in the Budget. By the middle of February the Accountant-General finishes the estimates on the basis of the latest available expenditure and revenue figures.

The preparation of Revenue Estimates for the year is also the responsibility of the Finance Ministry. As a matter of fact the important collecting agencies are located in the Ministry itself. These include the Income-Tax Department, the Central Excise Department and the Customs Department. On the basis of statistics for the past years they are able to forecast what the revenue for the coming financial year will be and how an increase or decrease in the rate of assessment would affect the total intake. In the light of a likely increase or decrease in expenditure, the Finance Ministry prepares proposals for variations in taxes. These proposals for variations are placed as bills before Parliament and have to be kept secret till the day of presentation. The Annual Financial Statement, the Demands for Grants, and the Tax Bills are placed before the Lok Sabha by the Finance Minister on the day he presents his 'Budget' and makes the Budget Speech.

#### BUDGET IN PARLIAMENT

By practice the budget is presented to the Lok Sabha on the last working day of February. On the same day the Finance Minister also introduces the Finance Bill to give effect to the financial proposals contained in his speech. Parliament gets about two months to consider both the Demands for Grants and the Finance Bill. But before the close of the financial year on 31 March, a Vote on Account is passed which is approximately for 1/12 of the total estimated expenditure. Normally, the Vote on Account is passed without discussion. Unlike the practice in UK, the budget, although it is presented to the Lok Sabha, is simultaneously laid on the Table of the Rajya Sabha.

Before we proceed to describe how the discussion takes place on the budget proposals, we consider it important to refer briefly to two other points; namely, procedure in respect of Money Bills and the rule of financial initiative. Money bill is one which deals with the imposition, repeal, remission, alteration or regulation of any tax, the raising or guarantee or repayment of

loans or the impositions or variation or repeal of charges on the Consolidated Fund, etc. Money Bills must originate only in the Lok Sabha. They are transmitted to the Rajya Sabha, which must return them within 14 days with its recommendations, Rajya Sabha can propose amendment to a Bill, but the Lok Sabha is not bound to accept it. If no report is forthcoming, or even if a Bill is rejected, it is placed before the President as if it had been passed by both the Houses. Thus except delaying a Bill by 14 days, Rajya Sabha has no other power over a Money Bill. For the first time in July 1977, the Rajya Sabha (having a majority of Congress members) made four recommendations for changes in the budget of the Janta Government; but none of them was accepted by the Lok Sabha. Although Parliament, in actual practice Lok Sabha, is all-powerful even in the financial sphere, yet in keeping with the British practice, the power of proposing expenditures and imposing taxes has been reserved for the Ministers, while the House has the power only to reduce or reject a tax or grant. In other words, no grant can be proposed unless a Minister demands it, and no tax can be imposed unless the Ministry initiates it. Thus the full responsibility for the national revenue and expenditure is that of the executive.

The presentation of the budget to Parliament is accompanied by the speech of the Finance Minister. In it he reviews the general financial position of the government, makes indications about the economic policy of the government, and in a very general way defends the new tax proposals. The Finance Minister also gives figures of actual expenditure for the previous financial year and gives revised Estimates for the current financial year. He introduces the Finance Bill immediately after his speech. As a part of the Budget documents and with a view to strengthening Parliamentary control and public understanding of the finances, the following documents are presented to the Legislature : (1) Documents submitted before the presentation of the budget *i.e.* Economic survey. (2) Documents submitted along with and as a part of the Budget : (i) Annual Financial statement showing the estimated receipts and expenditure, (ii) Explanatory Memorandum, (iii) Demands for grants, (iv) Finance Bill, (v) Memorandum explaining the provisions in the Bill. (3) Documents submitted after the Budget : (i) Annual reports of each administrative Ministry, (ii) Annual report on the working of industrial and commercial undertakings of Central Government, (iii) An economic classification of the Central Government Budget, and (iv) Performance Budgets of selected organisations.

#### GENERAL DISCUSSION

The rules of the House provide that no discussion of the budget shall take place on the day on which it is presented. A little later a general discussion of the Budget speech and proposals takes place



for 2-3 days in both Houses of Parliament. The date for the Budget and the number of days to be allotted for its discussion are fixed by the Speaker of the Lower House and Chairman of the Upper House in their discretion; but, in practice, such arrangements are made in consultation with the Leader of the House. In order that the largest number of members may participate in discussion, the Speaker generally fixes a time limit, 15 minutes being the maximum for each speaker. At the end of the debate the Finance Minister has a general right of reply and he is given an hour for the purpose.

#### THE VOTING OF DEMANDS

The next stage in the discussion of the Budget is the Voting of the Demands, which takes 8 to 12 days. The discussion on Demands for Grants is taken up Ministry-wise. A period is allotted to each Ministry by the Speaker, in consultation with the Leader of the House. All Ministries are put down for discussion; and each Ministry circulates to Members a report on the working of that Ministry. At the end of the debate the Minister replies to the criticisms made during the discussion. When a demand for grant is moved, amendments to the motion may be of 3 kinds, which are technically called 'cut motions'. First, a token cut is usually moved in the form 'that the Demand be reduced by Rs. 100'. Its intention is to raise discussion on the policy underlying the demand. The Second is an economy cut, the purpose of such an amendment is to reduce the grant or an item of the grant by a specific amount. The third, is refusal of supplies cut; such a cut motion provides an opportunity for the discussion of alleged mismanagement or bad organisation and is in the form 'that the whole Demand be reduced to Re. 1.' No amendments to cut motions are permissible. When the time allowed by the Speaker for considering the demands is exhausted, a guillotine is applied. It means that all the grants that have not been so far passed by the House are put to vote one by one. After this the appropriation Bill, in which all the Demands for Grants are separately given is introduced in the Lok Sabha. The Appropriation Act<sup>1</sup> provides the legal authority for the withdrawal of money out of the

<sup>1</sup> After the Grants have been made by the Legislature, a bill is introduced to provide for the appropriation out of the Consolidated Fund for all moneys required to meet: (a) the Grants made by the Legislature; and (b) the expenditure charged on the Consolidated Fund, but not exceeding in any case the amount shown in the statement previously laid before the legislature. No money can legally be withdrawn from the Consolidated Fund, until the Appropriation Act is passed. The sums authorised in the Appropriation Act are intended to cover all the charges including the liability of the past years, to be paid during a financial year or to be adjusted in the accounts of that year. Any unspent balances are not available for utilisation in the following year.

Consolidated Fund. The number of days on which the Budget proposals may be considered by the House is not laid down; but the Speaker is empowered to allot as many days as he thinks may be compatible with the public interest for the various stages.

#### SOME OTHER NOTABLE POINTS

(i) *Provisional Collection of Taxes.* Since the Provisional Collection of Taxes Act authorises provisional collection of taxes for a period of only 60 days from the date of introduction of the Finance Bill, so it must be passed in both Houses and be assented to by the President before the end of April.

(ii) *Supplementary Estimates.* Many departments may require more funds than had been estimated previously for the current budget. Whatever additional amounts the departments require are put together before the House in the form of Supplementary Estimates. In general, for their consideration the same procedure is followed as for the annual grants. But they must be passed before the close of the Financial year to which they relate.

(iii) *An Excess Grant.* It is made when a department spends more than the amount provided for any item in the regular budget and has failed to obtain a supplementary grant. Money may be spent from the Contingency Fund or even from the Consolidated Fund, because a proper system of exchequer control does not exist in India.

(iv) *Vote on the Credit.* Sometimes for national emergencies as those arising from war, etc., the Government may require funds for which it may not be able to give a detailed justification immediately. The House may grant these moneys by passing 'a vote on credit'. An exceptional or a special grant is also like 'a Vote on Credit'.

(v) *Token Grants.* When funds to meet proposed expenditure on a 'new service' can be made available by reappropriation, a demand for the grant of a token amount is submitted to the vote of Parliament and, if Parliament assents to the demand, funds may be made available by reappropriation.

#### VOTING OF TAXES

Like the procedure relating to voting of expenditure the voting of taxes follows more or less British Pattern, except that there is no Committee of Ways and Means as in the United Kingdom. All the taxation proposals of Government are presented in the Finance Bill which is introduced in Parliament the same day on which the budget is presented. Besides the Annual Finance Act some of the taxes are also derived from permanent Acts. As in the case of expenditure, the Legislature is competent to reduce taxes proposed by the Government or to refuse to assent to them but cannot increase them.

There is one difference, however, in regard to demands for expenditure, the exercise of the theoretical power of the Legislature to reduce or refuse a demand may lead to a downfall of the Ministry and is, therefore, never allowed in practice and the estimates are passed without any reduction. A reduction in the proposals by Government for taxes is not dealt with in that strict way.

#### BUDGETARY PROCEDURE IN INDIA COMPARED WITH THAT OF U. K.

Our budgetary procedure, like the form of Government and several other aspects of administration, is very much similar to that of the United Kingdom. There are close similarities in respect of fundamental features. It has been rightly remarked that Indian Parliamentary procedure in finance is a stream-lined version of the British model. Three fundamental principles, namely, procedure in respect of money bills, the rule of financial initiative, and the distinction between charged and voted items, are British legacies. We may add that the House of Commons in UK and Lok Sabha in India have complete power to consider estimates of expenditure and to sanction, reject or reduce a demand for grant. In both countries it is provided that if any question arises as to whether a Bill is or is not a Money Bill, the decision of the Speaker is final. The Second Chambers in both the countries (House of Lords in UK and Rajya Sabha in India) have little powers in financial matters. The Estimates (Votes in UK and Demands for Grants in India) are not discussed in the Upper Houses and Money Bills can only be delayed for a short period, 14 days in India, and one month in UK.

Notwithstanding the above similarities, important points of difference are : (i) In the United Kingdom, the main Estimates for the coming year are presented to the Committee of Supply and the Budget is opened by the Chancellor of the Exchequer in the Committee of Ways and Means. In India there is no Committee of the whole House, like the English Committee of Supply and the Committee of Ways and Means. (ii) The Budget in India is presented to and considered by Parliament in two parts : one pertaining to Railways and the other pertaining to Civil and Defence Departments as well as commercial organisations as Posts and Telegraphs. (iii) The Indian system does not provide for Money Resolutions *i. e.*, it is not necessary, as in UK to pass the resolutions before a taxation measure can be embodied in the Finance Bill. (iv) There are also no Consolidated Fund Bills in India; here money can be drawn from the Consolidated Fund on the authority of Appropriation Acts. (v) In UK the Finance Bill has to pass through the Commons like any other Bill. In India, after the Demands for Grants have been voted and the Appropriation Bill has been passed, the House proceeds to consider the Finance Bill. First, there is a wide discussion on the Bill, usually lasting two days. Then the Bill is referred to a Select

Committee, corresponding to a Standing Committee in the House of Commons, which considers the Bill in detail. Its report is presented to the House and is discussed for two days, during which time the discussion falls into three parts : general discussion on the report of the Committee, clause by clause consideration of the Bill, and the third reading. At the end of two days, the Speaker is empowered to put all questions necessary to dispose of all outstanding matters in the Bill.

#### A.R.C. RECOMMENDATIONS

In a report on Finance, Accounts and Audit (1968) the ARC recommended that the financial year should begin on 1 November instead of 1 April as at present. The financial year from 1 April was not based on the customs and need of India. The economy is still predominantly agricultural and dependent on the monsoon. The financial year should enable correct assessment of revenue, synchronise with the biggest continuous spell of working season in agriculture, and facilitate an even spread of expenditure. These conditions could be fulfilled if the financial year began on 1 November. The ARC stressed the need to introduce performance budgeting; a system of 'forward looking, budgeting, and the extension of the individual' running ledger accounts system to cover all gazetted officials of the Central Government liable to frequent transfers from one accounts circle to another.

#### MAJOR OVERHAUL IN FINANCIAL ADMINISTRATION AND INSTITUTIONAL CHANGES FOR DECISION-MAKING PROCESS

The Union Government decided in 1974 to effect major institutional changes in the system of financial administration at the centre. These are directed towards streamlining and modernising procedures governing the working of various Ministries and Departments of Government and removing bottlenecks and improving administrative performance in relation to the needs of the Fifth Plan. One of the basic changes to be effected is aimed at integrating the financial scrutiny now being performed by the Ministry of Finance, with respective administrative Ministries. This will mean that financial advice will be available to the Ministries at all levels of decision-making and will replace the present system of referring the major decisions to the Ministry of Finance. With this integration, it will be possible to achieve better project formulation, investment decisions and implementation with assured flow of funds. This reform will also ensure that there is no rush of expenditure towards the end of financial year and enable increased delegation of financial powers to subordinate organisations. The overall aim of these measures is to ensure development of increased capabilities in financial management on the part of different departments of Government.

As a result of the changes, the Government will now achieve complete switch-over to performance budgeting as early as possible and shift emphasis from financial to physical targets and ensure long-term planning and review of policies. The administrative and financial rules and regulations will be codified afresh in simple and precise language and new procedures will be laid down to simplify arrangements for prompt settlement of claims of employees. The procedures in the public sector banks to transact Government business will also be streamlined for the convenience of citizens. These decisions have been taken following the recommendations of the Special Group of Senior officers and management experts in the public sector which was set up to suggest measures to gear up financial administration. However, considerable preparatory work and detailed processing will have to be done to give effect to these changes.<sup>1</sup>

#### PERFORMANCE BUDGETING

Performance budgeting is essentially a process that seeks implementation and control of programmes through budget allocations. Its primary purposes are : (a) to achieve a correlation between physical and financial aspects of a programme; (b) to improve budget formulation and related decision-making and the review of the actual progress at all levels of government; (c) to facilitate better appreciation and review by the legislature of the objectives of the government, the direction of outlays, and the results that are likely to accrue from the outlays; (d) to make possible more effective performance audit; (e) to help measure and assess the actual progress achieved towards the attainment of the long-term objectives of the government enunciated either in the Five-Year Plans or elsewhere; and (f) to pave the way generally for an overall efficient financial management in the government.

The important question, however, relates to the manner in which these objectives could be achieved. Here two aspects of performance budgeting need to be considered. To achieve these purposes, the form and the formal content of the budget is to be so evolved as to facilitate the fulfilment of these purposes. It would similarly be necessary to adapt the budgetary process (*i.e.*, the administrative process through which consideration of the proposals of the departments and ministries takes place), in a manner supporting and capable of achieving these purposes. The performance budget as recommended by the Administrative Reforms Commission and as accepted by the Government has an agency orientation. In other words, a performance budget has to be prepared for each organisation a ministry, department, attached or subordinate office. The performance budget has certain basic elements and three steps. The

<sup>1</sup> I. I. P. A., *Newsletter*, May 1974.

first step is to indicate the organisational structure of the agency and the objectives of that agency. The second step is to draw up a Financial Requirements Table. This Table contains three basic elements : (i) a programme and activity classification, (ii) object-wise classification, and (iii) sources of financing, indicating the Demand Numbers and Major heads under which these outlays are included in the current appropriation structure. The third step consists in providing an explanation of the Financial Requirements. This needs to be done with reference to each of the programmes included in the table. The purpose of this explanation is to provide some indicators that are capable of reflecting the performance aspects of the organisation.<sup>1</sup> All the Union Ministries framed, for the first time, performance budgets for 1975-76 to highlight the specific objectives of the each Ministry and its projects, programmes and activities, made an assessment of the performance in 1974-75 and set the targets for 1975-76. Performance budget is the latest of the innovations which have been made over the last three years in order to make budget documents more meaningful.

The Administrative Reforms Commission had recommended a review of the structure of major heads of accounts and their recasting in terms of broad functions and major programmes of the Government as well as the introduction of performance budgeting. With effect from 1974-75 the Union budget incorporated a new classification in terms of functions and programmes of the Government with the object of enabling Parliament and the public to have a better appreciation of the allocation of resources and purposes of government expenditures. Under the revised classification, suggested by a team of officers headed by the former Deputy Controller and Auditor-General, governmental functions were grouped into : (a) general, (b) social and community, and (c) economic services, and major heads of accounts have been allocated for important programmes and functions in each service. Changes have also been made in the classification of capital expenditure to bring out the order of investments in different types of industries while different heads under receipts, show tax and non-tax revenues separately.

While the revised accounting classification was brought into effect in 1974, performance budgets were prepared by all Ministries and Departments for 1975-76, presenting allocation of resources in terms of major programmes and activities of the Government. According to the Finance Ministry, performance budgeting would serve as a tool of management-monitoring of Plan programmes and utilisation of funds provided for the various schemes. Hitherto, the lack of information related to each programme, both in regard to

<sup>1</sup> A. Prem Chand, 'Performance Budgeting in Government', in *Management in Government*, April 1969.

allocation of funds and targets and achievements, blurred the accountability aspect. The performance budget will be an instrument for evaluation and judgment only if the Ministries or Departments evolve rational and objective standards for performance in each sector—such as achievable unit cost of steel production, the best speed in oil drilling and optimum period for construction of various plants.

#### IV. CONTROL OVER EXPENDITURE

Control over expenditure is a very important aspect of financial administration. This is also known as 'Execution of the Budget.' We shall discuss it under three heads : (1) Control exercised by the Comptroller and Auditor General, *i.e.* Control through audit; (2) Control exercised by the three Financial Committees of Parliament: (a) Public Accounts Committee, (b) Estimates Committee, and (c) Committee on Public Undertakings; and (3) Control exercised by the Finance Ministry, particularly the Department of Expenditure.

##### A. CONTROL THROUGH AUDIT

###### THE COMPTROLLER AND AUDITOR-GENERAL OF INDIA

The office of the Auditor-General was created for the first time in 1857. In 1860, an Audit Board with two members (The Accountant-General of India and the heads of the Military Finance Department) was constituted with the object of conducting a monthly appropriation audit. But this board was abolished in 1865. Before the introduction of the Montford Reforms, the need for setting up an independent audit agency was realised, so a statutory recognition was given to the Auditor-General in 1919, as a part of the constitutional reforms. Under this Act, the Auditor-General was made an independent authority, who was appointed by the Secretary of State-in-Council. The Government of India Act, 1935, further specified the duties of the Auditor-General. The provisions in the Constitution of India regarding the Comptroller and Auditor-General (C & AG) of India are to a large extent based on the 1935 Act. Article 148 (1) states that there shall be a C & AG of India who shall be appointed by the President and shall only be removed from office in like manner and on the like grounds as a judge of the Supreme Court. The Constitution also stipulate that the C & AG shall, before he enters upon his office, make and subscribe before the President or some person appointed in that behalf by him an oath or affirmation according to the form set out. It has also laid down that the conditions of service of the C & AG shall be determined by Parliament, and that he shall not be eligible for re-appointment to any office 'under the Government of India or under the Government of any State'. Thus the C & AG is an independent authority.

As an Auditor, the C & AG is wholly a quasi-judicial authority. He is independent of the executive. Once appointed he can be removed only by a resolution of Parliament for proved misbehaviour or incapacity. Although conditions of his service are determined by a parliamentary enactment, they cannot be altered to his disadvantage after his appointment. Thus he has been placed beyond political and party influences; and his oath of office requires him to uphold the Constitution. It is the business of the C & AG to watch that the various authorities of the State act, in regard to all financial matters, in Parliament as well as appropriate Legislatures and Rules or Orders issued under them. He enjoys complete liberty in reporting relevant facts, and of expressing opinions upon the conduct of Ministries and Departments. In fact it is his duty to call attention of Parliament/State Legislature to every matter to which he thinks their attention should be drawn.

Duties of the C & AG before the separation of accounts from audit were as follows : The C & AG was responsible for keeping the accounts of the Union and of the States other than accounts of the Union relating to defence or railways and a few other categories where the keeping of accounts has been made a departmental responsibility. He prepared every year accounts showing the annual receipts and disbursements of the Union and each state under various heads known as Finance Accounts. In addition, he submitted to the President every year a General Financial Statement incorporating the summary of the accounts of the Union and of all the States for the last preceding year and particulars of their balances and outstanding liabilities, and containing such other information as to their financial position as the President might direct to be included in the Statement. In the preparation of an account or report, the C & AG had the authority to ask for information so required, to inspect office of accounts and to prescribe the form of the accounts with the approval of the President, which secures uniformity among all the State and the Union Government.

The C & AG keeps accounts of certain classes, *viz.* initial accounts to be kept in treasuries, initial and subsidiary accounts to be kept in any office or department of the Union or States, accounts of stores and stock to be kept in offices of Departments of Governments and the trading, manufacturing and profit and loss Accounts, balance sheets and any other subsidiary account to be kept in any department of government. The C & AG audits (i) all expenditure from the revenues of the Union and the States and ascertains whether moneys shown in the accounts as having been disbursed were legally available for and applicable to the service or purpose to which they have been applied or charged and whether the expenditure conforms to the authority which governs it; (ii) all transactions relating to debt, deposits, sinking funds, advances, suspense accounts, and remittance



businesses ; (iii) all trading, manufacturing and profit and loss accounts and balance sheets, where required to be kept by any department; and (iv) the receipts of any department, accounts of stores and stock kept in any office or department, with the approval of or if so required by the President or the Governor. The more important classes of receipts audited under the present arrangement comprise customs receipts and also receipts of railways and posts and telegraphs. Recently, the income-tax receipts have also been included in this category.

#### AUDIT OF STATE UNDERTAKINGS

The Audit responsibilities of the C & AG also extend to the State undertakings. The organisation of these undertakings in India has taken three forms viz. departmental units, statutory corporations, and companies registered under the Companies Act. The departmental units automatically attract the audit of the C & AG. The Corporations are entirely State owned and the C & AG has been appointment in the concerned Act as the auditor, except in the cases of the Life Insurance Corporation and the State Bank. In terms of the Companies Act, audit of Government companies conducted by professional auditors appointed by Government after consultation with the C & AG, who has also the right of issuing directions to the auditors. There is a provision for a supplementary audit by the C & AG. The definition of Government companies excludes those in which funds invested by Government fall below 51 per cent of the share capital.

A controversy had arisen in India in regard to the question of auditing the accounts of the growing number of state enterprises in India. One view, supported by Paul H. Appleby and C. D. Deshmukh was concerned with the mechanical nature of government audit. The latter stated in Parliament : 'Where important commercial considerations are involved, like the State Bank or the Insurance Corporations, since government officers lack experience of the work in such enterprises, Government would not like the success of these recently nationalised ventures to be jeopardised by some violent change in the system.' On the other hand, K. M. Panikar expressed his opinion in the matter then : 'So long as the funds involved belong to the government, the responsibility to Parliament cannot be overlooked or ignored on the ground that they are being managed on a commercial pattern.'

The C & AG in some cases, also undertakes other audits 'by consent' on terms, which are settled between him and the Government concerned. The Comptroller and Auditor-General prepares every year audit reports relating to the accounts of the Union and the States. These reports are submitted to the President or the Governor, as the case may be, who causes them to be laid

before Parliament/State Legislature. The C & AG has the authority to call for any book or other documents relating to transactions to which his duties in respect of audit extend. The C & AG provides, in respect of accounts kept by him, such information to the Union and State Governments, as is required by them. He also provides such assistance in the preparation of the annual financial statement as the Government may reasonably ask for.

In the discharge of the above mentioned duties, the C & AG has been given complete liberty in reporting relevant facts, and of expressing opinions upon the conduct of Departments and Ministries in regard to their financial transactions and on the decisions of the Finance Ministry affecting them. In this context, the Public Accounts Committee (1962-63) in its fourth report (Third Lok Sabha) has expressed the views that it is the function of the C & AG to satisfy himself not only that every expenditure has been incurred as prescribed with faithfulness, wisdom and economy. Further, the Committee has pointed out that if, in the course of his audit, the C & AG becomes aware of facts which appear to him to indicate an improper expenditure or waste of public money, it is his duty to call the attention of Parliament to them, through his Audit Reports.

The role of the C & AG should be carefully noted. He is an independent authority created under the constitution and his functions and duties are defined therein. He is required to conduct an independent audit of all government transactions and to make his report to Parliament through the President. His reports form a very valuable material on which the Public Accounts Committee works. In the absence of independent audit by the C & AG it would have been difficult for the Public Accounts Committee to gather cases of fraud, financial irregularities, mis-appropriations, excess of expenditure over grants and so on. Thus in the scheme of parliamentary scrutiny of the administration, the part played by the C & AG is very significant and he makes the task of Parliament and Public Accounts Committee easier in pin-pointing the faults of administration.

#### THE SEPARATION OF ACCOUNTS FROM AUDIT

A key reform in the field of financial procedure has been the separation of accounts from audit. Pursuant to the already approved scheme for separation of accounts from audit in a phased manner (completing the coverage at the Centre by 1 October 1976), the President of India promulgated two ordinances 1 March 1976 to facilitate the separation of accounts from audit. The first Ordinance amended the first proviso to Section 10 (1) of the Comptroller and Auditor General's (Duties, Powers and conditions of Service) Act, 1971 so that it would be possible to relieve the C & AG of the responsibility of compiling the entire accounts of the Union either at once or by stages. The amendment was deemed necessary as

under the existing provisions the Auditor-General may be relieved of the accounting responsibility only in cases of a particular service or Department. Similarly, the Governor of a State, with the prior approval of the President, may relieve the C & AG of his responsibility for compiling the entire accounts of the State Government either at once or by stages. The second Ordinance provided that it would be lawful for Government to transfer officers and employees working in the Indian Audit and Accounts Department and that the Government would be assisted in this task by one or more advisory committees. As per the provisions of this ordinance, the personnel on transfer severed their connections with the Indian Audit and Accounts Department. Persons transferred are entitled to be appointed to posts which are equivalent to those held by them in the parent department. The substantive status of permanent Government servants has been preserved. Nearly 7,500 Government servants working in C & AG's organisation in different grades and scales were transferred in the first phase of separation of accounts which took place on 1 April 1976. Of this, nearly 7,250 persons moved to the Directorate of Posts and Telegraphs.

With the separation of accounts from audit, accounts will be integrated with management and the existing lacunae arising from externality of accounts are expected to disappear and accounting will become an aid to cost-effective management at all levels starting from the lower operational level to the Ministry. Beginning with some Ministries on 1 April 1977 the compilation of accounts which was hitherto the responsibility of the C & AG of India, became the responsibility of the Ministries. According to the Union Government, the new system would also do away with an element of duplication of accounting work now prevailing with the Departments and Audit Offices maintaining similar accounting records. With the proposed cheque drawing powers to pay offices, speedy settlement of all claims of employees as well as the citizens may be expected. Full coverage on departmentalisation of accounts in all Ministries was extended by 1 October 1976. The compilation of accounts has been speeded up thereby providing necessary inputs to Management Information System for better financial control and performance appraisal.

Several advantages have been claimed for the changes that have now been introduced. They will enable the Ministries to watch the flow of expenditure regularly and take effective and corrective action wherever necessary. The decentralised system of accounting will facilitate the settlement of all claims directly by the departments by cheques. The large variations from the budgeted allocation, which are now very common, are expected to disappear under the new system. It will also help proper maintenance of provident fund accounts and prompt settlement of claims. The accounts of the

Ministries and departments will be compiled within 25 days after the close of the month. Such accounting pattern is totally different from the system hitherto in vogue under which the details of the expenditure incurred by the various departments were forwarded by the Treasuries to the Accountant-General and the accounts received by the different Accountant-Generals were consolidated by the Accountant-General, Central Revenues. This necessarily had led to delays in the compilation of accounts. Under old Article 150 the C & AG had the power to prescribe the form in which the accounts of the Union and of the States should be maintained. Consequent on the separation of the accounts from audit, this power has been given to the President, to be exercised after consultation with the Comptroller. The article has been amended accordingly as part of the 42nd Constitution Amendment Act 1976.

## B. CONTROL THROUGH PARLIAMENTARY COMMITTEES

### PUBLIC ACCOUNTS COMMITTEE

This is the most important of the three financial committees set up by the Parliament. It is constituted by both the Houses of Parliament by election for each financial year. It consists of 22 members—15 members from Lok Sabha and 7 from Rajya Sabha; and its membership is distributed among the parties roughly in proportion to their strength in the House. Its chairman was formerly appointed by the Speaker from amongst the members; but now Leader of Opposition in the Lok Sabha is its chairman. Its primary function is to examine in detail the Appropriation Accounts. The duty of the Committee, as embodied in the Rules of Procedure and Conduct of Business, is to satisfy (a) that the moneys shown in the accounts as having been disbursed were legally available for and applicable to the service or purpose to which they have been applied; (b) that the expenditure conforms to the authority which governs it; and (c) that every reappropriation has been made in this behalf under rules framed by competent authority.

The other important functions of the Committee are : (i) to examine, in the light of the report of the C & AG, the statement of accounts showing the income and expenditure of state corporations, etc., (ii) to examine the statement of accounts showing the income and expenditure of autonomous and semi-autonomous bodies, and (iii) to consider the report of the C & AG in cases where the President may have required him to conduct an audit of any receipts or to examine the accounts of stores and stocks. 'The Appropriation Accounts and the Audit Report of the C & AG form the basis for its examination. The scrutiny also extends beyond the formality of expenditure to its wisdom, faithfulness and economy.' Cases involving excess expenditure over voted grants or appropriations are

particularly examined. It conducts its work on almost the same line as the PAC in the United Kingdom.

The Committee has the power to examine the representatives of the Departments concerned and to summon the officers more directly responsible, whenever necessary. The Committee is not an executive body. It can only call attention to any irregularity or to the failure to deal with it adequately and express its opinion thereon and record its findings and recommendations. It is primarily guided in its line of investigation by the C and AG's reports, as to the subjects it selects for consideration, though it is not necessarily restricted to the ground covered by that report. A representative of the Ministry of Finance is also required to be present at its meetings. Its power is indirect and lies in the impact that the committee has on the general financial management in Government and potential results of its report. The recommendations made by the Committee are embodied in the reports which are laid before the Legislature.

The Public Accounts Committee expressed serious concern over the 'alarming increase' in the excesses in Government expenditure over the voted grants and charged appropriations and called for immediate steps to improve the system of expenditure estimation. The 96th report of the Committee on the Appropriation Accounts of the Railways, Posts and Telegraphs, Defence and Civil Services for 1971-72, containing the above mentioned observation was presented to Lok Sabha on 3 September. The excess expenditure during 1971-72 was as high as Rs. 223.81 as against aggregate amount of excesses recorded under voted grants and charged appropriations from 1965-66 to 1970-71 which ranged from Rs. 3.78 crores to Rs. 55.76 crores.

Stating that something was 'basically wrong' with the system of estimation of the expenditure, the Committee added : 'Year after year Parliament is being presented with a fait accompli, which, to say the least, is highly undesirable. The situation needed to be remedied without further loss of time.' The Committee suggested an in-built system which would serve as a self-regulatory apparatus in the various Ministries to analyse the reasons for the excesses and to take timely remedial measures. The excesses for 1971-72 included an amount of Rs. 46.45 crores under 'relief and resettlement of evacuees from Bangladesh' and another amount of Rs. 84.95 crores relating to 'defence services, effective Army'. The Committee felt that the budgetary procedure should be rationalised to facilitate closer estimation of the additional requirements during an emergency. The Committee took a serious view of the persistent excess in expenditure on 'maintenance of national highways'. The excess touched an 'all-time high' of Rs. 2.58 crores in 1971-72 with Assam and West Bengal accounting for a major portion of the excess expenditure.<sup>1</sup>

<sup>1</sup> I. I. P. A., *Newsletter*, September 1973.

## ESTIMATES COMMITTEE

It consists of not less than thirty members who are elected by the Lok Sabha every year from among its members according to the principle of proportional representation by means of the single transferable vote. Ministers are debarred from membership of the Committee. Its functions are : (a) to report what economies, improvements in organisation, efficiency of administrative reforms consistent with the policy underlying the estimates, may be effected; (b) to suggest alternative policies in order to bring about efficiency and economy in administration; (c) to examine whether the money is well laid out within the limits of the policy implied in the estimates; and (d) to suggest the form in which the estimates shall be presented to Parliament. The Committee examines such of the estimates as may seem fit to it. It may hear officials or take other evidence connected with the estimates under examination. It may continue its examination of the estimates from time to time throughout the financial year and report to Parliament as its examination proceeds. The Committee's examination is not confined to the 'estimates' only, its purview includes a review of the current activities of the departments chosen for purposes of examination.

As a matter of convention, there is no formal debate on the reports of the Public Accounts Committee or the Estimates Committee. It is open for any member of the Lok Sabha to refer to the reports during the general discussion on budget or he can put questions. Recommendations bearing important implications can be raised in the House by special motions. As it is a Committee of Parliament deriving its authority from it, its recommendations are naturally given due consideration by the Government. If the Government feels unable to accept a particular recommendation of the committee, it makes a representation to the Committee for a reconsideration. If the Committee reaffirms its earlier recommendations, the ultimate decision must rest with Parliament.

The Committee devotes a great deal of attention to the organisational aspect and to measures which would, in its opinion, provide that the money voted by Parliament was better spent. It claims that economy is linked with efficiency and efficiency with organisation. In its very first report, it touched upon the efficiency and organisation of the ministry which it had taken up for examination. The second report was entirely devoted to the reorganisation of the secretariat of the departments of government. Since then almost every report has touched upon the question of efficiency and administrative re-organisation. Its Ninth Report was devoted entirely to questions of administrative, financial and other reforms. Similarly, the Sixteenth Report dealt with the organisation and administration of nationalised undertakings.

#### COMMITTEE ON PUBLIC UNDERTAKINGS

This committee is relatively of recent origin and was constituted in 1964. It consists of not more than 10 members elected from Lok Sabha and 5 members elected from Rajya Sabha are associated with it. The functions of the Committee are : (a) to examine the reports and accounts of such public undertakings as have been specifically allotted to the Committee for this purpose; (b) to examine the reports, if any, of the C & AG on public undertakings; (c) to examine, in the context of the autonomy and efficiency of public undertakings whether the affairs of public undertakings are being managed in accordance with sound business principles and prudent commercial practices; and (d) to exercise such other functions vested in the Public Accounts Committee and the Estimates Committee in relation to the public undertakings specified for the Committee as are not covered by the above and as may be allotted to the Committee, by the Speaker from time to time. The Committee is, however, precluded from examining or investigating the following matters : (i) matters of major government policy as distinct from business or commercial functions of the public undertakings; (ii) matters of day-to-day administration; and (iii) matters for the consideration of which machinery is established by a special statute under which a particular undertaking is established. As a matter of convention, the reports of the Committee are not discussed in the House.

#### C. CONTROL BY THE FINANCE MINISTRY

While every Ministry has its responsibility for financial control, the Ministry of Finance has prominent role in this respect. The Ministry of Finance exercises a general control over the whole business of financial administration of the Union Government. It makes proposals for raising funds by taxation and borrowing, for carrying out the administration of the Government. It controls the entire expenditure of the Government of India. The process of control of the Ministry of Finance is initiated when the budget proposals regarding the programmes of the other Ministries are submitted to it for scrutiny. It calls for the justification of expenditure, if so required, from the Ministries.

With a view to discharging the complex tasks of each administrative agency, the administrative Ministries now have Internal Financial Advisers. After the budget is approved, it is his responsibility to ensure that the financial management aspects of the Ministry are conducted properly. References are to be made to the Finance Ministry only in cases where new proposals are to be processed, or alternatively when the transactions in question exceed

the powers delegated to the administrative Ministers. The Finance Ministry's control is mainly exercised through a proper scrutiny of the schemes before inclusion in the budget and through an adequate system of reporting and test checks. Although it is imperative for the administrative Ministries to consult their Internal Financial Advisers in the exercise of delegated powers, the Secretaries of the administrative departments are empowered to over-rule their advice by an order in writing. The Internal Financial Adviser's responsibilities now include the maintenance of relevant accounts and the formulation of performance budgets of their respective administrative departments.

The Finance Ministry consists of four departments, one of which is the Department of Expenditure. This Department is subdivided into four divisions—(i) Establishment Division, which is generally responsible for dealing with matters relating to the interpretation of financial codes. It also acts as a coordinating unit for all the Departments in establishment matters. (ii) Civil Expenditure Divisions, whose main functions are to exercise financial scrutiny of proposals of various administrative ministries. (iii) Special Reorganisation Unit, which was created in 1952 with the object of conducting an objective review of the organisation and strength of the various ministries and other organisations. (iv) Defence Expenditure Division, which is responsible for scrutiny, sanction and accounting of the expenditure of the Defence Ministry and controls the Defence Account Departments.

The Head of the Defence Division is the Financial Adviser, who as the principal representative of the Finance Ministry in the field of the Defence Expenditure, is responsible to the Finance Minister. The Financial Adviser is also the Head of the Defence Accounts Organisation (technically the Head is the Controller-General of Defence Accounts who is subordinate to the Financial Adviser) and he is also the Chief Accounting Officer for the Defence Services. In the latter capacity he prepares the appropriation accounts of the Defence Services. He is intimately associated with all the activities of the Ministry of Defence. The Civil Expenditure Divisions are slightly different from the pattern of the Defence Division. Each Expenditure Division which is headed by a Joint Secretary is accredited either to a single ministry or to a group of ministries. Generally, major spending ministries have an exclusive Division all to themselves. These ministries have their Internal Financial Advisers also, but in matters which are beyond their powers and where consultation with the Finance Ministry is necessary, they are referred to these Divisions for their opinion. If and when necessary the Divisions obtain the orders of the Secretary of the Department of Expenditure and convey them to the administrative ministries. The formation of the Divisions helps the



finance officers to maintain regular contacts with the administrative ministry to which they are attached. These regular contacts enable them to form a correct perspective of the programmes and policies of the ministries.

The Appropriation Act gives legal authority for incurring expenditure. As soon as it is passed, the Finance Ministry writes to each administrative Ministry stating that the amounts under the particular grants controlled by them are available for expenditure. The administrative Ministry in turn makes sub-allotments to each of their controlling officers, who in turn, place specific sums at the disposal of disbursing officers under them. The Ministry concerned is responsible for the expenditure against a particular demand for grant. The demands are themselves divided into primary units of appropriation, and these units are according to function or objects of expenditure. Twice each year, in December and February, a statement of excesses and savings is communicated by each Ministry to the Finance Ministry, which chalks out its ways and means position on the basis of this statement.

The financial control exercised by the Finance Ministry is really a careful scrutiny of all proposals for expenditure from public funds. Its objective is the achievement of economy, efficiency and propriety in public finance. Before according financial concurrence to any new proposal involving fresh expenditure, it is the duty of Finance Officer to be satisfied about the necessity of spending so much money on such a scale to secure a given object. He must satisfy himself that the following canons of financial propriety have been observed : (i) Every public officer is expected to exercise the same vigilance in respect of expenditure incurred from public moneys as a person of ordinary prudence will exercise in respect of expenditure of his own money. (ii) The expenditure should not *prima facie* be more than the occasion demands. (iii) No authority shall exercise its powers of sanctioning expenditure in a manner that will directly or indirectly be to its own advantage. (iv) Public money should not be utilised for the benefit of a particular person or section of the community unless—the amount of expenditure involved is insignificant, or a claim for the amount can be enforced in a court of law, or the expenditure is in pursuance of a recognised policy or custom. (v) The amount of allowances granted to meet expenditure of a particular type should be so regulated that the allowances are not on the whole a source of profit to the recipients.<sup>1</sup>

The present conception of control extends also to the examination of technical details of developmental schemes and works programmes, even though the Finance Department is not properly equipped for this purpose. As a result, the objections raised are often elementary and un-informed in character. This not only acts

<sup>1</sup> B. B. Lal. *Financial Control in a Welfare State*, 105.

as an irritant, but is also time-consuming. Ultimately these objections mostly come to be waived, but often only after interminable discussions; and control becomes effective only over establishment proposals, the expenditure on which forms but an insignificant fraction of the total cost. The Finance Ministry, therefore, whilst straining at the gnat, has often to swallow the camel. The problem is how these aspects of control can be abridged, abated or more intelligently applied in the interests of greater speed in the execution of schemes. The transfer of financial responsibilities to administrative ministries, divesting finance of a corresponding measure of responsibility, may be a simple enough process but it is more difficult, without organisational changes, to ensure that these would be reasonably exercised to the best advantage of the national economy.<sup>1</sup>

The system of control over expenditure in our country is centralised. According to B. B. Lal, some of the main advantages of the system of centralised financial control are : (1) It enables the execution of a coordinated, unified fiscal policy by enabling the allocation of relative priorities amongst various items of expenditure. (2) It avoids inflation, waste and extravagance by checking the enthusiasm and halting the execution of half-baked, ill-conceived and relatively less important schemes and thus acting as a watch-dog of the tax-payer. (3) It encourages the individuals, with initiative and capacity to take financial decisions. According to some critics, the contrary is the case in group decision-making, decentralisation and delegation of powers. (4) The centralised system works very well where the volume of expenditure and the size of organisation is small. (5) The centralised system gives great psychological and political prestige to the Headquarters.

Nevertheless, the system is not without its drawbacks, some of them being serious enough for a fast developing country : (1) In expanding organisations, it is difficult for one individual or a group of individuals to make all decisions and it is necessary to push decision-making power down to appropriate operating levels, leaving the top financial executives to concentrate on more important matters or organisation, planning and scrutiny of projects and feedback control. (2) Decentralisation is not inconsistent with the concept of concentration of power in one authority. It merely means that those who have power delegate a portion of it to other authorities according to operational needs of the 'Law of Situation' and thus avoid unnecessary concentration of powers. (3) Things are accomplished much faster if there is decentralisation and delegation according to needs. (4) Psychologically, a feeling of participation as well as the sense of responsibility is promoted among the individuals responsible for administrative decisions if they are also entrusted with the duty of looking after the financial consequences of their

<sup>1</sup> Asok Chanda, *Indian Administration*, 220.

decisions. (5) Day-to-day control by Finance Department tends to blunt the financial conscience of the spending agencies and creates lot of avoidable work, resulting in delay. (6) Centralised control involves a good deal of wastage of time and effort at both ends and makes for a timid attitude on the part of the spending agencies.<sup>1</sup>

In India there is a general complaint against what is described as excessive concentration of authority in the Finance Ministry. Though the system of financial control in India is modelled on the British system, the conception of departmental responsibility for financial administration has not, as yet, been adopted or introduced. Delegations to departments have been neither significant nor extensive.... For instance, till very recently the heads of India's foreign missions had no authority to incur expenditure on their embassies. An administrator of a Rs. 100 crore multipurpose river-valley project complained that his powers were less than those he previously enjoyed as Chief Engineer of a State.<sup>2</sup>

The Finance Ministry centralised in itself the power of sanction, and even for small amounts of expenditure the administrative departments had to go in the Finance Ministry. There was too much control of detail (exercised by the Finance Ministry), too much pre-occupation with 'saving' rupees and 'too little with larger effectiveness.' In his second Report Paul H. Appleby pleaded for more delegation to subordinate programme agencies. The Estimates Committee in its 9th Report recommended : 'After the scheme is concurred in from the financial point of view by the Ministry of Finance the detailed execution of the scheme and spending of money thereon should be the responsibility of the administrative Ministry concerned, which should also be given power to vary or alter the amounts under the sub-heads of the scheme so long as the total outlay is not affected.'

## V. OTHER ASPECTS

### FINANCIAL POWERS DELEGATED TO THE MINISTRIES AND HEADS OF DEPARTMENT

As a result of the above and similar observations made by eminent administrators, the Government of India moved in the direction of greater delegation, as can be seen from the pamphlet (issued by the O & M of the Cabinet Secretariat in 1957) 'Financial and Cognate Powers delegated to Ministries and Heads of Departments.' The Government also promulgated the 'Delegation of Powers Rules, 1958'. Under these arrangements, subjects to some general limitations, wide powers were given to administrative Ministries, administrators and Heads of Departments.

<sup>1</sup> B. B. Lal, *op. cit.*, 106-07.

<sup>2</sup> Asok Chanda, *op. cit.*, 222-23.

(1) *Creation of Posts.* Ministries and Heads of Departments were given powers to create and sanction continuance of temporary Class II, III and IV posts. Whilst the Ministries could sanction such posts on other establishments and class III and IV posts on any establishment for any specified period, they could sanction Class II posts on their own establishment only for a duration not exceeding 2 years. The Heads of Departments could exercise their powers for creation of posts upto 2 years. The Ministries had also powers to create Class I posts upto senior Class I scale (Rs. 600-1150), or Secretariat posts not above Under Secretary's rank upto 2 years. They had also powers to create other Class I posts on subordinate establishments upto 6 months. The Ministries had powers to create permanent Class III and IV posts subject to existence of permanent recurring saving or inclusion of specific budget provision. All the delegations about creation of posts were subject to the following conditions : (i) Conformity with scales of pay approved for similar posts, (ii) observance of instructions regulating staff composition and work standard, and (iii) availability of funds by valid appropriation or re-appropriation.

(2) *Appropriation and Re-appropriation.* Ministries were given full powers of appropriation and re-appropriation while Heads of Departments were given certain limited powers.

(3) *Contingencies and Stores (other than Works).* Ministries were given full powers to incur non-recurring expenditure, whilst in respect of recurring expenditure their powers were limited to Rs. 1000 per annum in each case. The powers of Heads of Department were restricted to the extent of delegations by the administrative Ministries concerned. The Ministries had also powers to make petty local purchases of stationery stores upto Rs. 5,000 per annum while Heads of Departments had such powers upto Rs. 2,000 per annum. In all these cases, the availability of funds by valid appropriation or re-appropriation and observance of procedural and other general directions contained in Financial Codes and Rules was a pre-condition to the exercise of powers.

(4) *Miscellaneous Expenditure.* Ministries were given powers to incur expenditure on entertainments and light refreshments upto Re. 1 per head of one meeting subject to Rs. 5,000 per annum in respect of cases not covered by specific grants for entertainments or hospitality funds regulated by separate rules. These powers were subject to certain further restrictions. Ministries had powers to incur expenditure upto Rs. 5,000 on each occasion in respect of Foundation Stone laying ceremonies and to incur miscellaneous expenditure of a recurring nature upto Rs. 500 per year and non-recurring upto Rs. 2,500 on each item.

(5) *Expenditure on Grants-in-aid.* Ministries were given powers to sanction non-recurring grants-in-aid to clubs or organisations for

welfare of staff in offices outside Delhi upto Rs. 2 per member of staff per annum subject to overall limit of Rs. 1000 per office per annum. Certain limited powers were also delegated to Comptroller and Auditor General and Director General of Posts & Telegraphs etc.

(6) *Works Expenditure.* The Ministry of Works and Housing was delegated power to sanction original works and extension of existing irrigation, navigation, embankment or drainage projects upto Rs. 2 lakhs per annum subject to certain conditions. The Chief Engineer, CPWD, was authorised to sanction original work upto Rs. 50,000 and extension of existing irrigation, navigation, embankment or drainage projects upto Rs. 1 lakh subject to similar condition. The Ministry of Transport was, however, delegated full powers to sanction maintenance of national highways and other roads under their administrative control.

The prevailing scheme of delegation of financial powers was modified in 1962. In the light of new developments and suggestions the scheme of 1962 was reviewed in 1967 by the administrative ministries at the request of the Finance Secretary and in the light of this review a modified scheme was evolved by the Ministry of Finance delegating still larger financial power to the administrative ministries. The new scheme introduced from October 1968, is also based on the arrangements that the Ministry of Finance will exercise its control mainly by a proper scrutiny of the schemes, proposals, etc., before inclusion in the budget and through an adequate system of reporting and test checks. The salient features of this scheme are :

(1) It has been attached utmost importance that the time schedule for the formulation of budget proposals should be strictly adhered to in order to allow sufficient time for proper scrutiny by the Finance Ministry of Expenditure proposals submitted by the administrative ministries and for any subsequent discussions that may become necessary on the basis of such scrutiny.

(2) Administrative ministries will have full powers of re-appropriation within a grant provided there is no diversion of funds intended for Plan schemes to non-Plan activities and there is no augmentation of the total provision made for administrative expenses (*i. e.* pay, allowances, and other charges) under a particular grant.

(3) Ministries are required to strengthen their internal work study units for the efficient discharge of their functions. The activities of these units will be coordinated with those of the staff Inspection Unit of the Ministry of Finance, who will also periodically exercise functional test checks over their work.

(4) Ministries have been delegated full powers to sanction grants and loans subject to the rules and principles being prescribed in consultation with the Finance Ministry.

(5) The ministries are required to furnish to the Finance

Ministry copies of sanctions falling under the following categories :  
 (i) Contingent expenditure and miscellaneous expenditure above the limit of Rs. 2,500 recurring per annum in each and Rs. 10,000 non-recurring per annum in each case. (ii) Excess expenditure over the estimates of a scheme as accepted by the Finance Ministry. (iii) Reappropriation of funds in exercise of the powers delegated under the Delegation Scheme. (iv) Introduction of a new item in a scheme even if it does not result in substantial variation of the scheme as accepted by the Finance Ministry.

(6) Ministries having attached and subordinate offices should in each case review, in consultation with their Internal Financial Adviser, the adequacy of the financial powers with the heads of departments/offices under them and re-delegate their own powers to the extent necessary. It is also important that self-contained schedules of powers of subordinate authorities are drawn up and/or brought upto-date.

(7) The scheme has sought to improve the arrangements for reporting by the administrative ministries to the Ministry of Finance in respect of staff strength. Instead of half-yearly statements being submitted by the administrative ministries to the Ministry of Finance, the scheme has made it incumbent on the ministries to furnish in future quarterly staff statements to the Associate Financial Advisers. The proforma for the submission of such statements has also been revised and amplified.

The 1968 Scheme of Delegations of Financial Powers is an improvement over the earlier scheme of 1962 in many respects. It has provided for larger delegations of re-appropriation powers to the administrative ministries and has also enhanced their powers for the creation of posts required for public sector undertakings. The operation of the scheme was, however, restricted in some respects by a ban imposed on 17 November 1970 on creation of posts on the non-Plan side. The Government felt the need for such a measure to effect economies in administrative expenditure which had increased considerably as a result of the grant of interim relief to Central Government employees.

The Administrative Reforms Commission considered the suggestion made by their study teams and the Working Group of Financial Rules in regard to the question of delegations. They dealt with this subject in its various aspects in an independent report on 'Delegation of Financial and Administrative Powers' submitted to the Government in June 1969. Some of their important recommendations for reforms in this area are given below :

(1) In making delegations the approach should be that powers to be delegated should be the 'maximum possible' in the circumstances rather than the 'minimum necessary.' The delegations should

be reviewed at periodical intervals in the light of the requirements of the changed circumstances in which powers are exercised. The Department of Administrative Reforms should assist the nodal and other ministries concerned in making such a review and formulating proposals for changes necessary in the delegations, for the consideration and decision by government.

(2) The delegating authority should be responsible for ensuring that powers are properly exercised by its subordinate agencies. For this purpose, it should organise on-the-spot inspections and scrutiny of periodical returns containing details regarding decisions taken by delegated authorities. In judging the manner in which delegated powers are exercised, a broad view should be taken. Petty mistakes or minor errors of judgment should not be made much of and one who was shown initiative and boldness in taking decisions should be encouraged notwithstanding minor errors.

(3) While the responsibility of the Finance Ministry for budget making and for pre-budget scrutiny should remain unimpaired, ways and means should be devised by mutual cooperation between the administrative ministries and the Finance Ministry to avoid as far as possible duplication of work in the matter of budget scrutiny.

(4) Subject to necessary safeguards, the ministries should delegate adequate financial powers to the line and specialist organisations. The delegations should generally be related to the nature of work handled in such organisations. This should be achieved mainly by suitable adjustments in the delegation of powers of the existing categories of authorities. An increase in the number of patterns themselves should be considered only if unavoidably necessary. Care should, however, be taken to ensure that there is no needless proliferation of patterns.

(5) The feasibility of having an Internal Finance Officer in selected line and specialist organisations should be examined and such an officer should be appointed wherever the nature or the volume of work clearly warrants such an appointment.

In conclusion we may state that with the extended responsibilities of the administrative ministries and the delegation of enhanced financial powers to them, the availability of the expertise of a financial adviser functioning as an integral part of the administrative ministry would prove of great help to the ministry in the transaction of its financial business. It should, however, be left to the mature judgment of the administrative secretary as to how best he would make use of the services of the financial adviser. In other words, the financial adviser should function under the full control of the administrative secretary. Such an arrangement should not give rise to any misconceptions regarding the position and role of the administrative secretary, as he must remain fully responsible for the efficient and economical administration of the programmes entrusted

to him and be accountable for results.”<sup>1</sup>

#### THE RESERVE BANK OF INDIA

It was brought into existence by the Reserve Bank of India Act, as a shareholder's bank in 1934. The general direction of the affairs and business of the Bank was entrusted to a Central Board consisting of 16 members including a Governor and two Deputy-Governors. But the Bank was nationalised in 1948, and the constitution of the Central and Local Boards was also amended. All the Directors are now nominated by the Government. They represent the local Boards and various interests in the country. The Directors of Local Boards are also nominated. The administrative set-up of the governing body consists : (1) a Governor, (2) two Deputy Governors, (3) ten Directors, and (4) a Government Official. The Governor and the Deputy-Governors who are also Directors of the Central Board, devote their whole time to the affairs of the Bank. A Local Board is constituted for each of the four areas specified in the 1st Schedule to the Act, namely, the Western Area, the Eastern Area, the Northern Area and the Southern Area. The Bank is an autonomous body.

Some of the important general functions of the Bank are : (1) to accept deposits without interest from the Union and State Governments, banks, local bodies and any person; (2) to purchase, sell and re-discount at a standard rate published from time to time : (a) bills of exchange and promissory notes drawn and payable in India, (b) bills etc. drawn and payable in India for financing agricultural operations or marketing of crops, and (c) bills issued or drawn for holding or trading in securities of the Union and State Governments; (3) to make loans and advances to States, Local Authorities, Scheduled Banks and State Cooperative Banks, etc.; (4) to purchase and sell securities of the Union and State Governments; and (5) to perform all other functions usually performed by a Central Bank and in any country.

#### THE STATE BANK OF INDIA

The former Imperial Bank of India, which had come into being in 1921 by the amalgamation of the three Presidency Banks was converted into the State Bank of India on 1 July 1955. The Management of the Bank vests in a Central Board of Directors. The Union Government in consultation with the Reserve Bank appoints the Chairman and nominates other Directors to represent regional and economic interests. Its functions are : (1) to continue providing credit to industry, trade and commerce as before; (2) to assist banking on vigorous lines; (3) to provide larger remittance facilities and attempt to mobilise available rural savings; and (4) to be a

<sup>1</sup> M. K. J. Thavraj and K. L. Handa, *Financial Control and Delegation*, 58-104.



powerful agency for enlarging the supply of rural credit and develop cooperative marketing and warehousing.

#### A. R. C. REPORT ON TREASURIES

The Administrative Reforms Commission submitted to the Government of India on 27 February 1970, its seventeenth report on 'Treasuries'. The Report has made suggestions for overhauling the existing treasury system and procedures to remove the delays, inconveniences and irritations to the citizens in receiving payments from the Government and in depositing money on Government Account. The Commission has recommended that every department concerned with the receipt of taxes or other payments of a known or foreseeable nature, which are payable at fixed intervals, should issue challan forms to the intending depositors with the heads of accounts and other particulars duly filled in, to obviate the need of the depositor paying repeated visits to the treasury or the departmental office concerned. The Bank would receive the amount due on such challans direct as is done in the case of dues of the Income-Tax Department. Where, however, the amounts paid are not of a periodical or foreseeable nature, the departmental officers should maintain sufficient stock of blank challan forms with them in order to avoid the necessity of a visit to the treasury by the citizen for the purpose of merely collecting the challan forms. In such cases a member of the treasury staff should be deputed to sit in the local branch of the Bank to carry out the necessary verification of the challan, etc. The Depositors of Government dues should also be provided with the facility of getting challan forms duly filled in with complete classification of each item of receipt from challan-writers duly authorised by the State Governments.

The Commission has further recommended that the responsibility for the timely remittance of the leave salary to the Government servants should rest squarely with the administrative authorities, who should make arrangements for the timely remittance of the net amount of the leave salary to the Government Servants by means of a demand draft at the address specified by them. In the case of Class IV Government Servants the net leave salary should be remitted by the prescribed officer by money order at Government expense. The Commission has also suggested that a Government Servant should not normally be required to appear in person at the place of payment or furnish a life certificate when claiming leave salary. In order to obviate the present difficulties, in particular of junior officers in receiving their pay and allowances on appointment at, or transfer to, a new station or district, it has recommended that the heads of offices should be empowered to grant advances of pay equal to their salaries.

## CHAPTER XVI

# ECONOMIC PLANNING

## I. INTRODUCTION

### MEANING

What is Planning ? In almost all the progressive countries of the world, the scope of governmental activity, in relation to the social and economic life of the people, has greatly increased as a result of strong reaction against the philosophy of *laissez faire*. Consequently, many forms of activity formerly left as a free field for individual or corporate enterprise, have become matters of active community interest. Several of the new and enlarged functions of the State have come to be associated with the term 'Planning'. Planning is a technique or process. It means that some method is followed which results in determining what is wanted and a plan of action for reaching that desired goal. As a matter of fact, the purpose of planning is to substitute pre-determination for casualism in so far as it can be practicable. In brief, planning is pre-vision or rational and adaptive thought applied to the future.

The following may be considered as the postulates of planning : (1) The beginning of effective planning is a complete and clear determination of objective by general administration. (2) The next step is for general administration to formulate broad policies governing its achievements. However, the general objective and broad policies are finally approved by the legislature. (3) The third step is for general administration to determine the technical ways and means of achieving the objective within the frame of formulated policies. (4) The next step is 'planning for planning' *i.e.*, the general goal must be broken into sub-goals with a view to assigning the same to various agencies, and also the assignment of responsibilities to individuals. (5) Finally, planning must provide for measurement of results of operations and for publicity of the results. In any case, a plan embodies : (i) proposals for the behaviour of human beings, (ii) statement of goals, and (iii) proposals for implementing the goals.

### IMPORTANCE

Importance of planning is great and it is now widely recognised as essential. New society based on social quality and greater

economic justice cannot be achieved without conscious planning in the complex conditions of to-day. Planning implies centralised control of economic activities and it is definitely a better method for two reasons. : (i) under a private enterprise economy the particular enterprise seeks its own maximum advantage; (ii) in the absence of planned policies, democratic government tends to be ruled by the pressures of 'pressure groups' representing particular interests. Today, most underdeveloped economies are found in those countries which were formerly under foreign rule. This has been particularly so in Asia and Africa where European Powers established themselves in different regions of these two continents. By and large, these dependencies provided the raw materials required by various industries in the ruling country and served as a market for the goods manufactured by the latter. After the attainment of independence, their first reaction was to free themselves from economic bondage also. 'To do so successfully, two things were necessary. *First*, they had to develop their economy in such a manner that they would no longer be mere exporters of industrial raw materials and importers of finished goods. *Second*, this process of development had to be not only quick and thorough but was to be guided by certain social objectives—objectives which were conspicuously absent in the colonial era.'

The phenomenal success of the USSR, largely through planning, has been a source of inspiration to many underdeveloped countries. Even in countries theoretically committed to *laissez faire*, governments are permitted to guide or control economic development and such guidance often includes the formulation of objectives for the economy as a whole. *Firstly*, 'development' cannot mean the same thing when applied to different countries. It must vary in content as well as in goal according to their social and educational environment. In any case, the rate of growth must be such that per capita income rises significantly. *Secondly*, there should be balanced development ensuring self-sustained growth and a certain measure of freedom from dependence on external assistance. *Thirdly*, it must ensure equitable distribution of the fruits of growth.

Since the end of World War II, a large number of underdevelopment countries have taken to planning. Their plans are different from both the Soviet type of comprehensive plans and the remedial or preventive plans of the highly developed capitalist countries. Their difference from the Soviet type of plans lies not only in their compass but also in the fact that since they are not based on a radical reorganisation of society, they cannot aim at an equally fast and all-round development. On the other hand, their difference from the Western preventive plans is due to their emphasis on growth and development.

The basic objective of a developmental plan is 'the most rapid

increase in the material and cultural standard of living of the people possible under the existing circumstances. This basic objective can be achieved only through the advance of the following three processes : (i) rapid industrialisation of the country; (ii) modernisation of agriculture; and (iii) strengthening of the economic independence of the country.<sup>1</sup> In free India, the political equality which our people now enjoy confers on each one the dignity of a citizen of a free country. It implies that the inheritors of our independence are not the few but the many, who inevitably demand the satisfaction of their wants and they have the right to have their demands met. Socialism is the necessary consequence in the economic sphere of our political democracy and national unity. It shall not be possible to maintain them, unless we spread the basic element of our democracy *i.e.* common sharing into our economic and social development.

#### EARLY ATTEMPTS AT PLANNING IN INDIA

A National Planning Committee with Jawaharlal Nehru as Chairman was constituted by the Congress in 1938, when Congress ministries were in office in eight of the eleven provinces of British India. Some of the proposals put forward by the National Planning Committee were : (a) key industries to be under State ownership and management, (b) industries connected with public utilities to function as public monopolies, (c) State entry into the field of mass production where private interests had not taken firm root, and (d) rigid control by the State of industries of national importance even where they were operating under private ownership.

The National Planning Committee was not the only agency concerned with planning for development at that time. Two other private plans were put forward. Of these, the best known was the so-called 'Bombay Plan', sponsored by a few industrialists and economists of Bombay. It aimed at doubling the per capita income in the country over a period of 15 years and envisaged increases of 130 per cent, 500 per cent and 200 per cent respectively in agriculture, industry and services. The central objective of the Plan was 'to raise the national income to such a level that, after meeting the minimum requirements, every individual would be left with enough resources for the enjoyment of life and for cultural activities'. According to the authors of the plan, this could be achieved only by reducing the overwhelming predominance of agriculture and by establishing a more balanced economy.

The publication of the Bombay Plan led to the formulation of other plans; for instance, closely following one another there appeared a Gandhian Plan by S. N. Agarwal, a Peoples' Plan prepared under the leadership of M. N. Roy and finally the official

<sup>1</sup> Ajit Roy, *Planning in India*, 202.

plan prepared by the Government of India. The chief object of the Gandhian Plan was to raise the material as well as cultural level of the masses to a basic standard of life within a period of 10 years. As this plan attached main importance to the welfare of the rural areas, greatest emphasis was laid on the scientific development of agriculture and subsidiary cottage industries. It also provided for nationalisation of land, development of consumer goods by cottage industries and the heavy industries to be fostered in the public sector included defence, power, mining, metallurgy, machinery and machine tools, heavy engineering, ships, locomotives, aircrafts automobiles, heavy chemicals, fertilizers and pharmaceuticals.

The next important link in the chain of planning was the appointment of the Advisory Planning Board towards the close of 1946, during the regime of the so-called Interim Government. Its terms of reference were : (a) To review the planning that had already been done by Government, the work of the National Planning Committee, and other plans and proposals for planning; (b) To make recommendations in the light of this review for the coordination and improvement of planning; and (c) To make recommendations regarding the future machinery of planning. The Board submitted its report on 18 December, 1946.

The Planning Commission was actually set up on 15 March 1950. Since then the Planning Commission has drawn up six Five Year Plans. The first three Plans were for the period 1951-56, 1956-61 and 1961-66. Then there was an interregnum for three years, the fourth Plan commencing on 1 April 1969. The first objective of planning is rapid economic growth. To this end, output was to be 'allocated' within broad sectoral categories, e. g. how much should be produced in the agricultural sector and how much in the manufacturing sector. The second and the more important objective of planning is that the process of development should raise living standards and open out to the people new opportunities for a richer and more varied life.

## II. FIVE-YEAR PLANS

Under the First Five-Year Plan, top priority was placed on agriculture including irrigation and power; development of key industries (like iron and steel, heavy chemicals, electrical equipment manufacture, etc.) came next; and social services, in particular the mobilisation of local efforts through community development programme, occupied the third place in the order of priorities. In the Second Plan, the principal objectives were : (a) a sizeable increase in national income so as to raise the level of living in the country; (b) rapid industrialisation with particular emphasis on the development of basic and heavy industries; (c) a large expansion of employ-

ment opportunities; and (d) reduction of inequalities in income and wealth and a more even distribution of economic power.

Third Plan had the following objectives : (i) to secure during the plan period a rise in national income of over 5 per cent per annum, the pattern of investment being designed also to sustain this rate of growth during subsequent plan periods; (ii) to achieve self-sufficiency in food grains, and increase agricultural production to meet the requirements of industry and exports; (iii) to expand basic industries like steel, fuel and power and establish machine building capacity, so that the requirements of further industrialisation could be met within a period of 10 years or so mainly from the country's own resources; (iv) to utilize to the fullest extent possible the manpower resources of the country and to ensure a substantial expansion in employment opportunities; and (v) to bring about a reduction of inequalities in income and wealth and a more even distribution of economic power.

The Fourth Plan had the following objectives : (i) In agriculture, an annual growth rate of not less than 5 per cent, and if possible more should be achieved. (ii) To attain this, the highest priority should be given to the production of fertilizers, insecticides and agricultural implements. (iii) The production of essential consumer goods such as textiles, sugar, drugs, kerosene, paper, etc., should be accelerated. (iv) The production of cement and other building materials should be augmented. (v) In the fields of metals, chemicals, machine-building, mining, electric power and transport industries the schemes in hand should be completed early and new schemes should be undertaken. (vi) Maximum possible facilities should be provided in the social services sector which should also be suitably reoriented for increasing productivity. (vii) In organising efforts in all these directions, rapid progress towards greater employment and social justice should be promoted.

The Fifth Plan beginning on 1 April 1974, envisaged a total outlay of Rs. 53,411 crores to achieve an overall annual growth rate of 5.5 per cent and take the country nearer the declared goals of removal of poverty and self-reliance. The Draft Plan, presented to Parliament in December, 1973, provided for a public sector outlay of Rs. 37,250 crores. The share of the private sector was to be Rs. 16,161 crores. The plan had been drawn up within the framework of a 12-year perspective (1974-75 to 1985-86) and the document incorporated a policy-frame and proposed detailed steps to ensure effective Plan implementation. The Plan envisaged an annual growth rate of 4.67 per cent in agriculture, 8.2 per cent in mining and manufacturing and 7.6 per cent in exports.

The Plan estimates, based on the 1972-73 price level, assumed a balance of payments gap of Rs. 4,008 crores, to be filled by foreign assistance. The Plan strategy laid emphasis on fuller utilisation of

capacity already created and speedy completion of projects already under implementation. To attain the basic objectives of removal of poverty and self-reliance, it was felt necessary that there should be a higher rate of growth, better distribution of incomes and a very significant step-up in the domestic rate of savings during the Plan.

The Plan programmes were designed to bring about a positive impact on the levels of consumption and income of the lowest 30 per cent of the population. While taking note of the recent spurt in world prices of several major import items, notably petroleum crude and oil products, the Plan hoped that effective measures would be taken to neutralise the adverse trends in India's terms of trade, to bring about sufficient improvement in the balance of payments by 1978-79, the last year of the Plan. The Plan retained the objective of meeting foreign exchange requirements, other than debt service charges, from India's own resources and visualised that the need for external concessional aid would be obviated by 1985-86. It estimated the per capita consumption of the bottom 30 per cent of the population (173 millions in 1973-74) to rise from Rs. 25 per month (at the 1972-73 prices) to Rs. 29 at the end of the Plan period and Rs. 38 in 1985-86.

The Plan made provision for Rs. 6,850 crores of additional resources mobilisation—Rs. 4,300 crores at the Centre and Rs. 2,550 crores in the States. The Centre was to mobilise resources through revision of the pricing policy of the Railways, P and T and other public sector enterprises to secure a satisfactory rate of return and investment, widening of the tax base for income and wealth tax, reduction of food subsidy, increase in urban property tax and increasing commodity taxation. Additional resources were also to be raised by the States through increasing direct taxation on agriculture and revision of irrigation and power tariffs. Non-inflationary development was the centre of the scheme. A provision of Rs. 1,000 crores for deficit financing was made but in view of the excess liquidity in the economy and the abnormal rise in prices, there was hardly any scope for deficit financing in the first two years of the plan. The Plan included, for the first time, a science and technology plan to support the drive for self-reliance in the core sector of the economy.

The Perspective Plan (1974-75 to 1985-86) described the emerging demographic structure, trends in urbanisation, the increase in labour force, the external sector of the economy and the long term output structure of the Indian economy in consonance with the objective of removal of poverty. Long-term rate of growth which Indian economy has to achieve on self-sustaining basis will be 6.2 per cent per annum. One of the fundamental conclusions of the perspective plan is that the creation of employment is going to be the single most important challenge to development planning during

the perspective period. The main instruments of the economic policy during the Fifth Plan were : (i) Appropriate allocation and utilization of investment outlays for different sectors, including the private sector. (ii) Package of incentives and disincentives to direct the flow of private investment into socially preferred uses and away from areas of low social profitability. (iii) Institutional reforms which would release production forces leading to higher levels of production and more equal distribution of benefits of extra production. and (iv) Fiscal and monetary measures to direct the process of development in non-inflationary manner.

The principal instruments of mobilisation of resources were taxation, borrowings and pricing policies in relation to public enterprises. The stepping up of public savings was the corner-stone of the resources mobilisation strategy. This meant higher rate of direct taxation especially on urban property, including socialisation of land, differential system of excise duty on non-essential and luxury goods and widening the tax base by bringing a system of direct taxes on agriculture, consistent with increased productivity and equity, similarly adequate measures had to be devised for collecting taxes from unincorporated enterprises, and for improving the tax-collection machinery and procedures.

The final document of the Fifth Plan emphasises that its strategies relate to the growth in the three crucial sectors of agriculture, energy and creation of more job opportunities. The total outlay is to be Rs. 39,303 crores in the public sector. The investment outlay in the private sector has been fixed at Rs. 27,048 crores. The public sector outlay has been increased by Rs. 2,053 crores from what was provided in the Draft Plan. Further, the outlay for the next two years (1977-79) has been reckoned at Rs. 19,902 crores against the estimate for the first three years of the Plan which totalled Rs. 19,401 crores.

The break-up of allocations shows substantial increases in the outlays on irrigation and flood control, from Rs. 2,681 crores in the draft to Rs. 3,440.18 crores in the final document; power and industry and mining, from Rs. 15,219 crores to Rs. 17,493 crores. As for resources, estimates for the public sector place it at Rs. 19,396 crores for the first three years of the Plan and at Rs. 19,907 crores for the next two years making a total of Rs. 39,303 crores for the entire Plan.

In the Fourth Plan, an additional 4.280 MW of generating capacity was added, taking the installed capacity to 18.456 MW. In the first two years of the Plan 3.524 MW were added, and with the requisite efforts on the part of the project authorities, it might be possible to add 2,387 MW capacity during 1976-77. In the first three years, the outlay on generation projects was about Rs. 2,145 crores. It is now expected that a total of about 12,500 MW of



generating capacity would be added during the Fifth Plan. Out of the projects which are currently under implementation, generating capacity of about 6,000 MW would still be under construction at the end of the Fifth Plan.

The stresses and strains in the economy kept the industrial growth low : 2.5 per cent during 1974-75 and 5.7 per cent during 1975-76. Even so, significant increases in production have been achieved in some of the basic industries like steel, coal, cement, non-ferrous metals and power generation. Decline was particularly noticed in industries like passenger cars, consumer durables and cotton textiles. Some of the steps taken to correct this situation can be mentioned. Twenty-one industries, including cotton spinning, basic drugs, and industrial machinery, have been delicensed. In respect of 29 selected industries the existing units, including foreign and MRTP companies, have been permitted to utilise their installed capacity without limit. In order to promote exports of engineering goods, 15 engineering industries have been allowed the facility of automatic growth of capacity at the rate of 5 per cent per annum or up to a ceiling of 25 per cent in a Plan Period in physical terms.

The Plan document indicates the urgent need for substantial effort at generation of employment in rural areas. However, the real problem is seen in a better perspective if it is realised that a part of the urban unemployment problem also arises from a spill-over from rural areas. In addition, regional unevenness in the character of the problem comes out in sharp focus. The labour supply projections contained in the draft Fifth Plan imply an increase in the labour force for the agricultural sector of 16.2 million in the Fifth Plan period and 18.9 million in the Sixth Plan period. The rates of labour force participation thrown up by the 27th round of the National Sample Survey (NSS), would be higher because of inclusion of children in the age group of 5.14 years and also because of difference in the concept of the survey. However, the increase in the labour force estimated according to NSS concepts would be about 18.26 to 18.96 million in the Fifth Plan period and 19.57 to 20.39 million in the Sixth Plan period.

With the successful achievement of the targets and policies indicated in the Plan, the increments in the labour force can be absorbed in the Fifth Plan period and a substantial effort can be made at handling the problem of the backlog of unemployed in the Sixth Plan period. The employment strategy suggested in the long-term perspective in the Plan document, emphasises the need for stepping up rates of public investment to realise the output projections contained in the Plans, intensification and refinement of agricultural planning strategies, particularly in their local aspects, realisation of the objectives of land reforms, production support to small farmers and finally, regeneration of employment in the

unregistered sector through an appropriate policy framework.

### III. JANATA GOVERNMENT'S APPROACH TO PLANNING

The Prime Minister, and the Home Minister, on 25 April 1977, called for a radical change in the approach to planning in the country shifting emphasis to the more productive and employment-oriented rural programmes. Inaugurating the second seminar of planning and implementation systems, sponsored by the Department of Personnel and Administrative Reforms, they said that the emphasis in the past on large capital-intensive industries and mechanised farms had failed to produce results despite 30 years of planning. The Home Minister went to the extent of calling for statutory safeguards demarcating the spheres of production among the cottage, small scale and heavy industry to avoid unfair competition between them.

About advantages of decentralisation in the industrial sector, it was pointed out that the heavy industry only multiplied the class of capitalists in the country rather than generate additional employment, except among the elitist classes. This was true of the public sector as well. Also it widened income disparities rather than reduce them. Assets of some industrialists like the Birlas had gone up from Rs. 30 crores in 1947 to Rs. 1,200 crores. All these led to creation of islands of prosperity in a vast ocean of abject poverty.

The test of planning lay in increasing productivity through larger self-employment opportunities, removal of poverty and reducing as quickly as possible economic disparities that have disproportionately widened. The Prime Minister spoke of the need to arrest the influx of people into the cities, which in turn led to growth of slums and crime. With far less investment than what was needed for slum clearance, people in the rural areas could be helped to build homes for themselves.<sup>1</sup>

The Finance Minister, in his 1977 budget speech explained the changed Plan outlay thus: 'I now turn to the outlays on the annual plan for 1977-78. As I have already indicated, we are firmly of the view that our economic ills can be overcome only through a comprehensive re-ordering of Plan priorities. The Plan strategy has to be reappraised. It should recognise the primacy of agriculture and accord overriding priority to rural development and eradication of unemployment within a time frame. These are the tasks to which our reconstituted Planning Commission will no doubt address itself. That, however, will take some time. In the meanwhile it is necessary for the government to move in the desired direction. That is what this budget seeks to do. True to the promises made to the people, in the recast Plan,

<sup>1</sup> *Times of India*, 26 April 1977.

we have now provided for additional outlays for agriculture, irrigation, power, khadi and village industries, sericulture, handlooms, postal and telephone facilities in rural areas and wide-ranging rural infra-structure programmes covering, among other things, such schemes as durable link roads and rural drinking water supply. It is our intention to step up further the outlays next year on programmes designed to develop rural infra-structure facilities so that over a period of, say, five years the basic needs of the entire rural population could be met. It is also our intention to review the programmes of slum clearance, and urban renewal in consultation with the States and to provide additional resources for accelerating the pace of execution of these programmes.'

The reconstituted Planning Commission at its first full meeting on 3 July 1977 agreed that the goal of the Sixth Plan should be to reduce unemployment 'very substantially' and to provide a substantial portion of the population below the poverty line with not only food, clothing and shelter but also drinking water, education and health. The Commission was of the view that by the end of the Seventh Plan there should be no unemployment and there should be adequate provision of public needs; only the goal of reducing disparities in income and wealth will remain to be achieved.

The major strategy of the Sixth Plan would be to put greater emphasis on agriculture and irrigation, rural industries, and area planning to ensure full use of local resources and manpower. The Commission accepted the need for 'absolute priority' to agriculture and rural development. It noted that a very large irrigation plan would be needed to achieve a significantly higher rate of growth in agriculture than indicated by the historical trend. The main thrust of the strategy would be to extend the scope of area planning and maximise the employment content of area development schemes. The meeting agreed that in working out employment programmes for inclusion in the Sixth Plan, the possibilities of generation of self-employment would be fully explored, especially in small and cottage industries and service sectors.

*The Rolling Plan.* The Planning Commission decided to introduce the Rolling Plan concept with effect from 1 April 1978, with a view to ensuring greater flexibility and realism in planning. The decision constituted a major departure from the past pattern of five-year plans which, it was felt, proved to be vulnerable to changes in the domestic and international economics and did not adequately provide for the inevitable fluctuations in agricultural output. Under the new concept, a five-year plan would be formulated as before, but it would be revised every year in the light of the performance of the various sectors of the economy and availability of resources. There would thus be a five-year plan in continuous existence, being reviewed and extended year by year.

*Annual Plan Guidelines.* The Planning Commission issued in guidelines to the State Governments and Ministries for the formulation of the annual plan for 1978-79 and the perspective for the new five-year plan beginning on 1 April 1978. The Commission has pointed out that the plan objectives should be reformulated in terms of time bound targets for the removal of unemployment, elimination of destitution, alleviation of poverty and reduction in disparities of income and wealth. To attain the employment target, it would be necessary to achieve a significant and sustained increase of labour absorption in productive work in agriculture, employment-intensive industry and the service sector of the economy.

The Annual Plan guidelines suggested :

(1) Every effort should be made to ensure that irrigation and power projects at advanced stages of construction are completed and commissioned in the shortest possible time.

(2) Continuing schemes in agriculture and related activities and village and small industries should be provided for at least at the same rate as in the current year.

(3) Continuing schemes in sectors other than irrigation, power and agriculture should be fully provided for if they are at an advanced stage of execution. Other schemes may be reviewed to determine their priority.

(4) The implementation of the minimum needs programme may be reviewed with reference to the benefits accruing to the target groups in the population.

(5) In respect of 'new shots', priority should be given to irrigation and power sectors.

(6) There should be adequate provision for surveys and investigations of new projects.

#### THE DRAFT SIXTH PLAN

The Plan document released in a summary form on 20 March 1978 shows that the Planning Commission has laid the following four conditions for making the Plan a success :

(1) a national consensus on the Plan ;

(2) raising and deploying all resources and devote all energies to the fulfilment of objectives ;

(3) a degree of restraint on the part of the community on expansion of its current consumption for the sake of future ; and

(4) vitally enthusiastic participation of the people.

The Draft Plan presented to the National Development Council proposes a total outlay of Rs. 1,16,240 crores, of which the outlay in the public sector would be Rs. 69,380 crores ; a rate of growth of 4.7 per cent and expects that a potential for 5.5 per cent growth will be built up by the end of the period. The major thrust in this plan will be on achieving substantial progress towards the aims of full

employment, eradication of poverty and the creation of a more equal society. The principal objectives of planning have, therefore, been defined as achieving within a period of ten years : (i) the removal of unemployment and significant under-employment ; (ii) an appreciable rise in the standard of living of the poorest sections of the population ; and (iii) provision by the state of some of the basic needs of the people in these income groups.

The Plan indicates a few areas of emphasis in achieving these objectives : agriculture, cottage and small-scale industries, area planning for integrated rural development and the provision of minimum needs. The draft plan has been given a rural orientation. The outlays on rural and agricultural development will account for 43·1 per cent of the total plan outlay. The draft plan envisages that per capita consumption levels will rise at the rate of 2·21 per cent during the period 1978-83 and 3·18 per cent during 1983-88.

The employment strategy of the draft plan is (a) to adopt an employment intensive sectoral planning ; (b) to regulate technological change to protect and enhance employment; and (c) to promote area planning for full employment. A substantial amount of additional employment will be generated by the expansion of irrigated agriculture and the largely expanded allied sectors of dairying, forestry and the fisheries. The Plan will also generate employment through : (i) the expansion of infrastructure and social services; and (ii) a large increase in the consumption of the poor, such consumption will create additional employment for wage goods which can be produced by labour-intensive methods. The following shows the Sectoral Growth Pattern, 1977-78 to 1982-83 :

Sector	Share in value added		Growth rate % (Value Output added)	
	1977-78	1982-83	1972-78	1982-83
1. Agriculture	42·50	38·71	2·76	3·98
2. Mining & Manufacturing	14·87	18·76	5·03	6·92
3. Electricity	1·71	2·14	9·55	10·80
4. Construction	5·74	7·64	10·09	10·55
5. Transport	4·37	4·96	4·65	6·24
6. Services	26·61	27·69	5·61	6·01

The National Development Council in March 1978 approved the objectives of removal of unemployment, reduction of poverty and inequalities and continued progress towards self-reliance and generally welcomed the proposals in the draft plan in furtherance of these objectives. The draft would be revised on the basis of detailed discussions with the State Governments.

#### IV. COMMUNITY DEVELOPMENT PROGRAMME

Community Development is a modern technique of adminis-

tration which might be described as 'people-centred' rather than 'government-centred.' Community Development, conceived as a new approach to administration from a social angle, derives logically from the United Kingdom's policy of guiding dependencies to responsible self-government. Success in carrying out this policy demands the creation of stable communities, capable of standing up to the strains of change; the development of a sense of responsibility and integrity among the people; and the building of a strong and developing economy.<sup>1</sup> Community development programme in India aimed at covering the entire country-side. Under the scheme thousands of development blocks and national extension service centres have been created.

The Community Development Programme, which aims at the individual and collective welfare of India's vast rural population, was launched on 2 October 1952, in 55 selected projects, each project covering an area of about 500 sq. miles with about 300 villages and a population of about 2 lakhs. It is a programme of aided self-help to be planned and implemented by the villagers themselves, the Government offering only technical guidance and financial assistance. Its objectives are to develop self-reliance in the individual and initiative in the village community. The Programme is designed to support this voluntary community effort. It consists of a number of individual schemes each of which falls under one of the following broad aspects of rural community life: (1) Agriculture, (2) Animal husbandry, (3) Irrigation and reclamation, (4) Health and rural sanitation, (5) Education, (6) Social education (including welfare of women and children), (7) Communications, (8) Rural arts, crafts and industries, and (9) Housing.

The programme is implemented in units of blocks, each comprising generally 100 villages with an area of 150-200 sq. miles and a population ranging between sixty and seventy thousand. Before April 1958, the programme was being carried out in three different phases. Under the revised pattern, on completion of the first stage of intensive development for five years the block enters the second stage during which development is continued with a relatively reduced budget provision under the Community Development Programme for another five years, but with increased provisions from the respective subject-matter departments. By the time a block completes Stage II, it becomes the permanent unit of planning and development and an established channel for developmental expenditure. Where this is not achieved to any substantial extent, the State Governments provide post-stage II blocks with a minimum outlay of Rs. 1 lakh a year. Before entering on the first stage, every block has to undergo a 'pre-extension phase' of one year with the programme exclusively

<sup>1</sup> See *Commonwealth Survey*, January 1958.

confined to agricultural development.

When the block entered stage I, a period of intensive development ensued ; the principal aim of the full complement of community development personnel has been to ensure that panchayats, village schools, village co-operatives and statutory organisations at the block and district levels are established and begin to function well. During Stage II, a post-intensive stage of five years, the responsibility for rural development was entrusted gradually to these organisations so that central financial assistance could be withdrawn. Each Stage I and Stage II block was provided with community development funds according to the provisions of a schematic budget prescribed from New Delhi. Each Stage I block worked within a maximum of 12,00,000 rupees for the five-year period ; Stage II blocks each had a maximum of 50,00,000 rupees for a similar period.

The Ministry of Community Development and Co-operation has been in over-all charge of the programme. Matters of basic policy go before the Central Committee consisting of Members of the Planning Commission and the Ministers for Food and Agriculture and Community Development and Co-operation with the Prime Minister as Chairman. Co-ordination with the allied Ministries is secured through special committees. In the States the execution of the programme is the responsibility of the State Government which acts through the State Development Committees consisting of the Chief Minister (Chairman), the Ministers of Development Departments and the Development Commissioner as Secretary. The executive head of the programme is the Development Commissioner who co-ordinates the activities of all developments.

The statutory Zila Parishads are responsible for the implementation of the programme in the districts. The Parishads consist of elected representatives of the people, including the Presidents of the Block Panchayat Samitis and MPs and MLAs of the district. At the block level, the Block Panchayat Samiti is in charge of the programme. The membership of the Samiti includes elected Sarpanches (Presidents of the village panchayats) and a few co-opted persons representing women and depressed and scheduled classes. The administrative personnel consisting of a Block Development Officer and eight Extension Officers, who are experts in agriculture, co-operation animal husbandry, etc., work under the direction of the Samiti. Voluntary organisations like the youth club, farmers' forum, mahila mandal, etc., supplement the work of the panchayat in their respective functional spheres. At the village level, while the panchayat is in over-all control of the programme helped by associate organisations, the Gram Sevak acts as a multipurpose extension agent having ten villages in his charge. The full complement of block personnel was posted to every Stage I and Stage II block. The only distinction was that whereas in Stage I the medical personnel were paid from

block funds, in Stage II their cost is borne by the public health department in each stage. The full complement consists of the following : One Block Development Officer, Eight Extension Officers—one each for agriculture, animal husbandry, rural engineering, social education, programme for women and children, co-operation, rural industries, panchayats, ten village level workers, two women village level workers, other supporting staff (progress assistants, clerks, jeep drivers, etc.). There is also a Medical Officer for the Primary Health Centre, with supporting medical personnel. Each block has a Primary Health Centre, usually located at block headquarters.

The Block Development Officer (BDO) is the controlling authority at the block level. The village level workers (Gram Sewaks) are multi-purpose extension workers, with primary emphasis on agriculture, and serve as the link between the development departments and the village communities. Each Gram Sevak is supposed to have charge of about ten villages, each working in a section (called a 'circle') of the block. The Gram Sevaks receive technical support from the extension officers. These officers are borne on the cadres of their respective departments and are responsible technically to the district level officer of their parent department. For administrative and operational purposes, however, both the extension officers and the Gram Sevaks are controlled by the BDO. The BDO's immediate superior is, in most states, the Collector.

Extension officers have several functions and duties in common. They assist and advise the BDO in all matters concerning their respective specialities. They collect and supply to village people and their organisations all available technical knowledge and relevant data on the basis of findings of research institutions. They attempt to answer satisfactorily, as far as possible, questions raised by village people about the methods they are advocating. They collect and supply information about detailed schemes in their field ; they keep in touch with policy decisions and other developments in their parent departments; and for this purpose correspond with the district officers of their parent departments and maintain close personal touch with them.

They also provide technical support for all the Gram Sevaks working in the block, and they tour throughout the block area for a prescribed number of days. The Gram Sevak's duties and functions reflect in microcosm the purposes and scope of the community development organization. His duties have been grouped into seven classes. The first group of jobs is classified as educative and informative; for example, demonstration of the use of improved seed, manure and improved implements; Organising campaigns of the use of improved seed, manure and improved implements. The second group of jobs is classified as ameliorative; examples are use of first-aid kits for minor ailments distribution of medicines. The third



group is classified as supply and service jobs; examples are distribution of improved seeds, improved implements, manure and fertilizers and the conduct of soil and water tests. The fourth group of jobs, including assessment of needs and resources of the village for undertaking works items, assistance in preparation of statements of expenditure, assistance in obtaining administrative approval and technical verification of works schemes and collection of public contributions. The fifth group, organizing villagers for development, covers such activities as organizing crop competitions, sanitation campaigns and youth clubs. The sixth and seventh groups are concerned with the collection of statistics and administration.<sup>1</sup>

The programme has been interpreted both as a goal and as a method. As a goal, it has been interpreted on a general level such as development of community consciousness or generation of Community participation. As a method, this has been seen as the way to solving certain specific problems such as increasing agricultural production or creating physical and psychological conditions for greater enrolment of boys and girls in schools. In brief, the goals of Community Development are both specific and general. In a climate of stagnant economy and inertia, it was not easy for those who were in the programme to enthuse people to understand the philosophy of Community development and seek their co-operation in their socio-economic development. Therefore, the first thing they had to do, was to seek the acceptance of the programme. Naturally first seven or eight years were spent mainly on those items which were intended to make villagers move in the direction of the acceptance of the programme.

With the introduction of Panchayati Raj, the second phase of Community Development Programme started, say in 1961. During the second phase of the programme there were two or three bad agriculture years and the entire economy was shaken. Some people started losing faith in the programme; and some even, suggested scrapping of Community Development. This was, perhaps, due to misconceptions about the content as well as about the objectives of the programme. There have been failures, but it has certainly made a difference in the attitudes of the people in rural areas. It has created in them a desire for improvement and there is healthy discontentment. They also understand more about planning than the people in urban areas of the same intellectual standards. It has also helped in building young and comparatively better educated leadership.

One of the most important findings of a report is the vote of confidence given to the programme by all respondents in their suggestion that the programme should not only continue but should be strengthened. Our village people are obviously of the opinion

<sup>1</sup> See D. C. Potter, *Government in Rural India*, 34-37.

that the Community Development Programme is highly useful to them. The results of the nation-wide survey on 'Awareness of Community Development' conducted by the National Institute of Community Development in 1965 were again confirmed in 1968, by the Chief Ministers in Madras when they voted in favour of the continuance of the programme.

Community Development Programme works and amenities oriented in the first phase. It was agriculture oriented in the second phase; it is inputs (seeds, fertilisers, credit, etc.) oriented in the third phase, and it will have to be employment and family planning oriented in the fourth phase. The fifth phase of the programme is going to be 'specialisation' oriented. The extension agency will have to have specialised technical knowledge to meet the requirements of educated and sophisticated customer, both in industry and in agriculture. This will also be the time when the shape of Panchayati Raj will change. The Village Panchayat will hardly have any importance. This institution might be utilised, at the most, as a local community performing municipal functions. With economic development, the size of Panchayat Samitis may have to be reduced. Functions of the institutions at the block and district levels will undergo a change. Their main functions will be that of a Local Self-Government, *viz.* municipal, tax collection, law and order providing services such as water etc., providing social services and amenities, providing marketing facilities. Agriculture extension work will then be done either by co-operatives of the beneficiaries or by specialised agencies of the State.<sup>1</sup>

## V. MACHINERY FOR PLANNING

### THE PLANNING COMMISSION

In the machinery and procedure for planning, the Planning Commission naturally occupies the most important position, but it has neither constitutional nor even statutory authority. It is only when the Plan formulated by the Commission is approved by the Cabinet that it receives the necessary sanction. The Planning Commission is essentially a staff agency, its main functions being advisory and co-ordinating rather than executive. Free from day-to-day administrative and executive work, the Planning Commission is in a position to devote itself almost entirely to the formulation of the Plan and evaluation of the progress achieved in the execution of each stage of the Plan. At the same time, its composition and status in the Government are such that it is in a position to maintain an effective liaison with the Central Ministries and the Governments of the States.

According to Paul H. Appleby, India solved better than any

<sup>1</sup> B. Misra, *Dynamics of State Administration*, 41-44.

other country known to him the problem of national planning. Membership of the Commission was a small edition of the Government itself. As a result of these things, the development of a Plan was the development of the Government's policy and programmes. However, M. R. Masani held the view that Planning Commission was alien to democracy. There are others who also feel that the Planning Commission has assumed the role of a super-cabinet. Some critics hold that planning must be done by the Cabinet or Ministers and not by a super-Government like the Planning Commission. They describe the Planning Commission as a dual government, the beginning of a Soviet-type dictatorship developing behind the scenes, deciding what shall be produced and what people shall buy, etc.

The Planning Commission in the early period was a multi-member body, which included four part-time members, who were important Cabinet Ministers, and four full-time members who were eminent public men, administrators or technical experts. This multi-member composition of the Commission and the fact that its members were appointed on the basis of their eminence and competence and not on political considerations helped it considerably in its co-ordinating work, gave it a national stature and made its recommendations acceptable even to opposition parties. Since its inception, the Prime Minister of India has been the Chairman of the Planning Commission. The day-to-day work of the Commission was looked after by a Deputy Chairman. The other members of the Commission were Union Ministers of Finance and Defence and four full-time members who had the rank of Ministers. The Minister for Finance was the member in-charge of finance in the Commission in ex-officio capacity. The Honorary Statistical Adviser to the Government also served as a *de facto* member of the Planning Commission. The Deputy Chairman in his capacity as Minister for Planning was assisted in his work in Parliament by two Deputy Ministers. The Secretary to the Cabinet was also ex-officio Secretary to the Planning Commission.

#### RECOMMENDATIONS OF THE A. R. C.

The ARC recommended that the Prime Minister should be closely associated with the working of the Commission without being the Chairman thereof. This association could be secured by his being kept continuously informed of the matters coming up for discussion at the meetings of the Commission. The Prime Minister may also attend the meetings of the Commission or address it whenever he/she considers it necessary. The Prime Minister will preside over the meetings of the Commission when he attends them. The Finance Minister should also be closely associated with the working of the Commission, but without being a member of the Commission.

The number of members should not exceed seven; and they should be selected on the basis of their expertise and experience. Though it would be an ideal arrangement to have a Commission consisting entirely of full-time members, in practice it may sometimes happen that experts, while willing to work as members, may be able to join the Commission only on a part-time basis. In order to make it possible to utilize the services of such experts, two of the members may be appointed on a part-time basis. One of the full-time members may be appointed as Chairman. The members may, as at present, have the status of Ministers of State and the Chairman will have the status of a Cabinet Minister. The members may be appointed for a fixed term of five years. But in order to preserve continuity, the term of one or two members may be extended by a year or so. Reappointments, however, may be made only in exceptional cases.

#### PLANNING COMMISSION RECONSTITUTED

The Planning Commission was reconstituted in September 1976. While the Prime Minister continued to be the Chairman of the Commission, no other Central Minister, except the Finance Minister, was formally associated with the Commission, as one of its members. For the rest, the Commission became a compact small body of full-time members, concentrating on the formulation of plans and the evaluation of plan performance, but not burdened with any executive functions. But the Janata Party Government has again reconstituted the Commission in May 1977. Dr. D. T. Lakdawala has been appointed Deputy Chairman of the Commission. Shri V. G. Rajadhyaksha and Prof. Raj Krishna were appointed as members of the Commission. It is good that all the three incumbents are agricultural experts. One such other member of the Commission is B. Sivaraman. In addition to these experts, the Home Minister, the Defence Minister and the Finance Minister have also been included ex-officio in the Commission, inspite of the ARC recommendations against their inclusion.

The Finance Minister has been an ex-officio member of the Commission in the past, but the Home and Defence Ministers have been involved in its work again, after a lapse of many years. Their association with the work of the Commission would invest it with greater authority and respectability besides reflecting the political reality of the day in respect of collective responsibility at the Centre, as against one person rule. The Commission would carry more weight in the highest circles of the country and its plans, once they have been scrutinised and approved by the members, would have a smoother passage in the Cabinet. The Commission will do the major work in the light of the developmental needs of the country and the priorities fixed by the Government.

## FUNCTIONS OF THE PLANNING COMMISSION

The Planning Commission was allocated the following functions since the beginning :<sup>1</sup>

(i) Assessment of the material, capital and human resources of the country, including technical personnel, and formulation of proposals for augmenting such of these resources as are found to be deficient.

(ii) Formulation of Plans for the most effective and balanced utilisation of the country's resources.

(iii) Definition of stages in which the Plan should be carried out through a determination of priorities and allocation of resources for completion of each stage.

(iv) Determination of the nature of the machinery necessary for the implementation of the Plan in all its aspects.

(v) Appraisal from time to time of the progress achieved in the execution of each stage of the Plan.

(vi) Public cooperation in national development.

(vii) Perspective planning.

The Planning Commission is concerned broadly with technical questions relating to planning and the planning organisation itself. The policy and details of specific schemes included in the Plan are matters to be dealt with by the Central Administrative Ministries and State Governments. The ARC in its interim report on Machinery for Planning said : 'The statement of the functions of the Planning Commission set out in the Government of India Resolution dated 15 March 1950 appointing the Commission should, with slight modifications, continue to be the basis of its working. Its role should be confined to the formulation of the plans—the long-term perspective plan, the five-year plan, the annual plan and the evaluation of plan performance. It should cease to involve itself in executive functions and decisions. The Planning Commission should be a non-statutory advisory body, having close relations with the Union Government. The Commission should at the same time be independent of the Centre, in order that the States may have no cause for dissatisfaction with its working. It will also not be desirable to make the Planning Commission a constitutional body completely independent of the Executive.'

All the members of the Commission worked as a body, but for the sake of convenience they also held charge of one or more subjects. Of the five full-time members, the Deputy Chairman was responsible for plan co-ordination, plan evaluation, administration and servicing and subjects under the 'Economic group'. The other four full-time members of the Planning Commission were in-charge of one each of the four following groups : (1) Industry, Labour, Transport and Power Group. (2) Agriculture and Rural Development Group.

(3) Perspective Planning Group. (4) Education, Scientific Research and Social Services Group.

But after its reconstitution in 1977, the Deputy Chairman of the Planning Commission, looks after plan coordination, general administration, financial resources, economic policy and international trade and development, according to the allocation of work decided after its reconstitution. He will also look after programme administration, education, social planning, health and family welfare including nutrition, housing, urban development and water supply, and information and public cooperation. Of the other three members of the commission, one looks after information system, statistics and surveys, perspective planning division, computer centre and data bank. He will also be in charge of employment and labour, manpower planning and technology clearance unit. The second member looks after monitoring, project appraisal, industries and minerals including small-scale industries, power and energy, transport and communication research and development. The third member looks after agriculture, irrigation and rural development, village industries, plan implementation, multilevel planning and hill and tribal areas development.

In this connection, the ARC observed earlier : 'The distribution of work among full-time members of the Commission has been in the nature of portfolio allocation to ministers. This practice has led to decisions being taken by individual members, sometimes not even known to the other members. The members jealously tend to retain a monopolistic grip over their portfolios. Incidentally, it has also had an inhibiting effect on the expression of views by other specialists. In these circumstances, co-ordination and joint thinking will recede to the background. The practice is not in harmony with the idea of planning and should be discontinued. While the allocation of work may be continued as at present but all the members of the Commission must have opportunities to express their views on all important questions and the decision of the Commission must not be that of individual members, but of the Commission as a whole. It is, therefore, recommended : (a) that each member of the Commission while in charge of his allotted work, must be allowed to call for any file and record his view; and (b) that important decisions should be taken, not by individual members, but collectively by the members of the Commission either at a meeting or by circulation.

The Planning Commission deals only with plan formulation and its evaluation. The execution and other administrative aspects of the plan projects is the responsibility of the Central and State Governments. As such the Commission has to maintain close contacts with them. The liaison with the Central Government is maintained through : (i) the inclusion of the Prime Minister as Chairman and the Finance Minister as member of the Commission; (ii) the

participation by the concerned members of the Planning Commission in the Cabinet meeting as and when necessary; (iii) the reference of important economic issues by the Union Ministries to the Planning Commission; and (iv) formation of committees and study groups by the Planning Commission where Ministries of the Government of India are represented. Coordination with the States is maintained through the State Departments of Planning and Development and the National Development Council.

#### THE NATIONAL DEVELOPMENT COUNCIL

The National Development Council is not a deliberative body, which could go deeply into the issues involved but only a high level body to broadly approve or modify the Plan, particularly the outlays proposed and targets for economic growth. Moreover, since the National Development Council is not a constitutional authority, its effectiveness and actual role are based on general understanding and conventions. The ARC defined the functions of the Council and suggested the inclusion of Cabinet Ministers in charge of important portfolios. It recommended that the Prime Minister should continue to be the Chairman and that the Secretary of the Planning Commission should continue to be the Secretary. It also suggested the formation of sub-committees of the Council to deal with particular matters. The Government of India considered the recommendations of the ARC, reconstituted the National Development Council and redefined its functions as follows in a Resolution dated 7 October 1967.

The functions of the National Development Council are : (i) To prescribe guidelines for the formulation of the national Plan, including the assessment of resources, for the Plan; (ii) to consider the national Plan as formulated by the Planning Commission; (iii) to consider important questions of social economic policy affecting national development; and (iv) to review the working of the Plan from time to time and to recommend such measures as are necessary for achieving the aims and targets set out in the National Plan, including measures to secure the active participation and cooperation of the people, improve the efficiency of the administrative services, ensure the fullest development of the less advanced regions and sections of the community and through sacrifice borne equally by all citizens, build up resources for national development.

The National Development Council makes its recommendations to the Central and the State Governments and it comprises of the Prime Minister, all Union Cabinet Ministers, Chief Ministers of all States and Union Territories and the Members of the Planning Commission. Delhi Administration is represented in the Council by the Lt. Governor and the Chief Executive Councillor, and the remaining Union Territories by their respective Administrators. Other Union

Ministers and the State Ministers may also be invited to participate in the deliberations of the Council; and the Council may appoint, from time to time, suitable sub-committees or panels. The Council meets as often as may be necessary and at least twice in each year.

Liaison with the States in the field of planning is maintained through the Programme Advisers appointed by the Planning Commission. The Programme Advisers assist the Commission in making an assessment of the implementation of various development programmes and advise it on the proposals put up by different State Governments. These Programmes Advisers study at first hand the working of the various development schemes, giving greater attention to the more important projects and the projects in which the Central Government provides specific assistance, financial or otherwise.

The Secretariat work of the Planning Commission is carried out in the Administration and General Division, which consists of the General Branch, Administration Branch, Accounts Branch, Coordination Branch, O & M and Work Study Section and the Vigilance Section. The Plan evaluation work is carried out in the Programme Evaluation Organisation. The Organisation is administratively under the Planning Commission, but in all technical matters it is guided by the Programme Evaluation Board. The Programme Evaluation Organisation is headed by a Chief Director.

The main functions of the Planning Commission are carried out in a number of technical Divisions. These Divisions scrutinise and analyse various schemes and projects to be incorporated in the plan, conduct technical studies and research on plan projects and programmes, prepare study material and reports on the Plan and follow up the progress of the plan projects. The Technical Divisions of the Planning Commission are generally headed by subject-specialists, designated as Chief (Director, where a less senior officer is head of the Division). Each Division is staffed by both senior and junior research staff. The smaller ones among the Divisions are called Sections. Its Divisions are : (1) Economic, Finance and Resources Division, (2) Agriculture Division (including Community Development Section), (3) Education Division, (4) Health Division, (5) Industries and Minerals Division, (6) Employment and Social Planning Division, (7) Land Reforms Division, (8) Irrigation and Power Division, (9) Perspective Planning Division, (10) Programme Administration Division, (11) Public Cooperation Division, (12) Transport and Communications Division, (13) Village and Small Industries Division, (14) Statistical and Survey Division, (15) Resources and Scientific Research Division.

There are a number of advisory bodies assisting the Planning Commission by providing both general and expert technical advice on various problems connected with the Plans. There also exist a number



of technical committees called 'Panels, where both officials and non-officials having special knowledge and experience in the relevant fields, are represented. The 'Panels' provide technical advice on matters for which these are appointed, viz. agriculture, education, health, labour, land reforms, etc. There is also a panel of economists as well as of scientists. Some of the other important advisory bodies functioning in the Planning Commission are : (1) Committee on Plan Projects and (2) Research Programmes Committee.

#### FINAL REPORT OF THE A. R. C.

The central objective of Planning is to achieve rapid economic development which means the attainment of a sufficiently high rate of growth. The rate of growth depends to a large extent on the proportion of its national income that the community can divert from consumption to investment. In fact, it becomes necessary to specially provide for improvement in the living conditions of the weaker sections of the community. Further, a consciously carried out programme of redistribution of incomes to prevent concentration of wealth can to an extent adversely affect the question of savings available for development. Creation of the largest possible employment opportunities and balanced regional development which are the accepted elements of our socio-economic policy can in the short-run lead to attaining a lower rate of economic growth. Balancing of a number of such competing objectives, though a difficult task, is the very essence of planning. External resources have also a bearing on development.

The need for a perspective of development was recognised almost from the very inception of planning. It was attempted in the First Plan. But since the Second Five Year Plan the techniques of perspective planning have been gradually improved. Perspective planning as attempted so far has come in for considerable criticism in certain quarters. The Commission does not subscribe to all this criticism of perspective planning. The ARC, therefore, recommended that when the Commission lays down the lines of a Five Year Plan, it should have before it a perspective of development over a longer period. The period may be different for different sectors of the economy, ten years for some, fifteen years for others and even a longer period for some others.

The composition of the Working Groups as an instrument developed by the Planning Commission to assist it in the formulation of the Five Year Plans should be broad-based. Each group should, in addition to the official members, include a few non-official experts selected on the basis of the subject-matter of the Group. The Groups dealing with subjects falling in the State List should also have some specialists from State Planning Boards and State Governments. The Working Groups should be compact bodies presided over by

Secretary or other senior officer of the Ministry concerned. The Working Groups at the Centre and their counter-parts in States should maintain a close and regular communication with each other.

In order to make the best use of advisory bodies, the Planning Commission should, to the maximum extent possible, make use of the special advisory bodies which are set up by the Central Ministries. These should be few in number and they should be compact bodies with a membership not exceeding, say, fifteen. It should be ensured that persons selected to work on these committees are not already working on a number of other bodies and are able to devote sufficient time for the committee's work.

The existing arrangements in the Ministries for attending to work connected with planning are far from satisfactory. As the Ministries are expected to assume the responsibility of detailed planning within sectors, it is necessary that the work of planning in each Ministry is looked after by a separate cell specifically constituted for the purpose. Keeping in view the specialized nature of the functions of the Planning Cells, it has recommended that each Ministry concerned with developmental programmes should have a separate Planning Cell which should be small in size. It should be suitably manned by technical and professional personnel and headed by a senior technical officer or a Joint Secretary, as may be appropriate. It should function under the overall supervision of the Secretary of the Ministry.

The time and money spent on the exercise of finalization of Annual Plan is hardly commensurate with the results achieved. A complete overhaul of the present procedures is necessary and the ARC, therefore, recommended that the present elaborate system of annual plan discussions through a large number of Working Groups should be discontinued. The discussions in future may be concentrated on major issues like resources mobilization, important policy matters, requirements of major projects and appraisal of performance in key areas—detailed planning within such a framework should be left to the Central Ministries and States.

#### PLANNING MACHINERY IN THE STATE

To spell out the functions of State Planning Boards the ARC recommended : (a) to make an assessment of the State resources and formulate plans for the most effective and balanced utilization of those resources; (b) to determine plan priorities of the State within the framework of the priorities of the National Plan; (c) to assist district authorities in formulating their development plans within the spheres in which such planning is considered useful and feasible and to coordinate these plans with the State Plan; (d) to identify factors which tend to retard economic and social development of the State and determine conditions to be established for successful execution

of the plans; and (e) to review the progress of implementation of the plan and measures as the review may indicate. The Board's secretariat should normally have four units—one dealing with Agriculture and Irrigation, the second with Power, Industry and Transport, the third with Social Services, and the fourth with Evaluation. Planning Cells should be constituted in the development departments of the State Governments.

Planning at district and village level was looked upon as an essential means of securing the maximum public participation and voluntary effort; but in practice, however, attempts at district and village planning have generally not been fruitful. However, the ARC does not consider that any elaborate machinery for planning in a District is necessary. At the operational level, planning cannot be divorced from implementation. A District Plan would necessarily have to be in the nature of identifying the particular potentialities of development of the district, an assessment of its crucial needs and formulating of specific measures to exploit the local resources and meet the local needs. The best arrangement, therefore, would be that the same set of persons who are responsible for implementation we also made responsible for planning. Therefore, the work relating to planning at the District level should be handled by the development set-up in the district.

#### PLANNING MACHINERY IN U. P.

In their Resolution dated 3 September 1971, the State Government decided to appoint a high power Board, known as the State Planning Board under the chairmanship of the Chief Minister, with a view to formulating their economic and development policies in a planned way and for implementation and evaluation of the programmes conforming to those policies. The Board with the Minister for Planning as Vice-Chairman and Ministers for Finance, Agriculture, Community Development, Irrigation and Public Works Departments, along with the Chief Secretary and the Finance Secretary, as Members and Planning Secretary as Member Secretary, are the highest policy-making and directing body in these matters.

Its main functions were defined as : (1) to evaluate different resources of the State (physical, financial and manpower) and to take necessary decisions thereon, (2) to accord sanctions for area-wise and programme-wise short-term and long-term schemes for a balanced, the best and effective utilization of State resources, (3) to point out the difficulties standing in the way of economic and social development of the State and to find remedies for successful implementation of schemes, (4) to lay down policies for removing regional imbalances in different regions, (5) to review the progress of plan and to indicate necessary modifications in planning and developmental systems, and (6) to establish coordination between the aims

and priorities of National Planning and the requirements, resources and capacity of the State.

In broad terms, the distribution of subjects allocated to the different sections of Planning Department is as follows :

*Planning (A) Department* : (1) Establishment and accounts matters of Planning Branch, (2) Directorate of Economic Intelligence and Statistics, (3) Planning Research and Action Institute, (4) Directorate of Evaluation, (5) Foreign Training Programme.

*Planning (B) Department* : (1) Sectoral Plans—Agricultural Programmes, Co-operation and Community Development, Irrigation and Power, (2) Progress Reports, and (3) State Planning Board.

*Planning (C) Department* : (1) Sectoral Plans—Industries, Transport and Communication, Social Services and Miscellaneous, (2) Co-ordination of Five Year and Annual Plans, (3) Central Assistance and Financial Resources for the Plan, (4) National Development Council, and (5) Plans of under-developed areas.

The Planning Department is responsible for laying down sectoral priorities, important physical targets to be achieved and for allocating the available resources among the different departments. In both its set-up and functions, the planning department is by and large working as any other department of the Secretariat without any technical and expert assistance save from the Directorate of Economic Intelligence and Statistics and Planning Research and Action Institute. All development departments are associated with the formulation of Plans. Some of them have set up planning cells, separate divisions or have special officers for the purpose.

After the Plans are formulated with the approval of the Planning Commission and the Planning Department, the other departments concerned have to take action for getting their schemes included in the budget with the approval of the Finance Department. The responsibility for implementation of all such schemes directly rests with those departments which have to carry it out with the help of their field agencies right from the village up to the State level. The departments are responsible for the issue of administrative and financial sanctions, obtaining of periodical progress reports and removing of bottlenecks. The secretary of each department holds monthly meeting to scrutinise the progress made in the issue of sanctions and utilisation of outlays. These meetings are attended by officers of the Planning and Finance Departments also. The Planning Department is also expected to review constantly the progress of implementation and to help in removing difficulties and inter-departmental bottlenecks as also to ensure inter-departmental co-ordination. This serves the purpose of enforcing a common scheme of priorities between the national, state and local levels, continuity in implementation and complementary action at various points.

At the divisional (regional) level there is a Divisional Planning

Committee, consisting of officials and non-officials, with the Divisional Commissioner as Chairman, for reviewing the progress in implementation of plans within the Division and for sorting out the inter-district and inter-departmental difficulties. For this purpose the Divisional Commissioner is assisted by the Joint/Deputy Development Commissioner. Other members of the Committee are the regional officers of various development departments such as Deputy Director of Agriculture, Deputy Director of Co-operatives, Deputy Director Animal Husbandry, etc. and all district Magistrates within the division.

At the district level the responsibility for implementation of plans is of the Zila Parishad under the charge of Adhyaksha, who is elected by the members of the Zila Parishad. The Adhyaksha is assisted by an officer, viz. District Planning Officer-cum-Chief Executive Officer, Zila Parishad. In his capacity as Chief Executive Officer, this officer works under the Adhyaksha. Keeping watch over-agricultural production, constructional and other programmes of the block and ensuring that various programmes are being implemented properly according to the plan, issue of directives regarding execution of District Plans, evaluation of programmes and periodical review of achievements and targets, and collection of data and maintenance of statistics of all matters relating to the implementation of the Plan within the district are the obligatory duties of a Zila Parishad in accordance with Schedule II of UP Kshettra Samitis and Zila Parishad Adhiniyam, 1961.

The planning Research and Action Institute was established in 1954. The functions of the Institute are to evaluate results and methods of work, to provide specialist service to the field workers, to fill up the gaps in available literature for the village people and to study administrative and personnel problems and interrelations. It has been able to carry out successfully a few action research projects in the fields of Rural Industries. Rural Health, Soil Conservation, Co-operation, Youth work, Panchayats and Mass Communication. The successful results of some of these, after they have been fully tested, have been made available to operational agencies of Government departments and private individuals for wide-scale extension.

## VI. PLANNING AND ADMINISTRATION

### IMPACT OF PLANNING ON ADMINISTRATION

The advent of planning since 1951 has considerably affected the nature, scope and scale of administrative activities of the central and state administrations in India. This impact has mainly arisen as a consequence of three factors : (i) the assumption by the State of developmental functions, including those in the field of welfare ; (ii) the increase in the scale of administrative operations, both tradi-

tional and new ; and (iii) the need for the greater association of the people with, and their participation in, the administrative process to facilitate planning from the bottom and speedy and effective implementation of the plans. The impact of planning on administration in India would be clear from what follows :

(1) *Policy Formulation and Programme Making.* Broadly speaking, planning, has substantially affected the legislative autonomy of the States ; their administrative autonomy has also been circumscribed by the methods of planning and financing of development programmes. With the advent of planning, the concentration point of administrative policy making has shifted to some extent from the Union Cabinet and the State Cabinets to the Planning Commission and the National Development Council ; and the role of the Union Ministry of Finance in the making of economic policies has also been correspondingly affected, Planning has also brought about an integration of administrative policies, as most of these have now to fit into the broad framework of the Plans. A planned approach to development necessitates an integration of economic and social policies inter se in terms of the objectives and priorities on which the Plan is based.

(2) *Organization and Methods.* Planning has been followed by a marked expansion of the administrative activities in two broad directions, namely, rural developmental administration and public enterprises. With the establishment of community development and national extension service programmes, and the establishment of popular bodies at the village, block and the district levels, which is under way, the entire pattern of district administration in India is gradually undergoing a radical change. Advisory development councils and committees, on which the different local interests, local bodies, and local leadership are represented, have been set up at the district and the block levels to advise and assist the administration in the planning and execution of local development schemes.

The advent of planning and assumption of developmental tasks has led to the creation of planning cells within executive departments and ministries ; full-fledged planning departments and planning advisory bodies at the state level and a national planning commission with a network of advisory panels and groups at the Centre ; and the establishment of special offices and agencies to execute particular Plan programmes and of evaluation units to assess the progress achieved in selected fields.

(3) *Personnel Administration.* The impact of planning on public personnel administration has mainly been in the direction of the liberalisation of recruitment policies, establishment of special functional cadres (e. g., industrial management pool, central administrative pool, central health and legal services, etc.); efforts at bulk

selection, strengthening and broad-basing of training programmes for the administrative and executive services, special training programmes for developmental administration ; revision of pay scales and dearness allowance ; liberalisation of pension and other benefits ; introduction of incentive schemes in public enterprises ; restraints on the civil servants' rights to organize and strike and on certain economic activities ; creation of special machinery of administrative vigilance ; strengthening of statutory provisions for combating corrupt practices and emphasis on correct attitudes and behaviour towards the public.

(4) *Financial Administration.* Planning has brought in its wake a substantial measure of financial delegation to executive ministries and departments ; a beginning towards programme budgeting by the inclusion, for some projects, in the explanatory Memorandum accompanying the budget, of some details about physical targets to be achieved ; and a stricter scrutiny by the Estimates Committee.

(5) *Public Co-operation.* In regard to the fifth dimension of administration—relations with the people—planning has released forces for an all-round improvement with a view to ensure greater responsibility, greater regard for the needs and aspirations of the people, greater mutual consideration and understanding, and increased participation of the people in the administrative process. This has mainly taken three directions ; community development programme, movement for democratic decentralisation of local government, and implementation of developmental and welfare programmes with the active participation of the people and voluntary organisations.

#### ADMINISTRATIVE ASPECTS EMPHASISED IN FIVE-YEAR PLANS

In every plan, the problems of implementation have been discussed and general remedies have also been suggested. The First Five-Year Plan recognised the key role of the machinery of public administration in the progress of the country. It pointed out that in all directions, the pace of development would depend largely upon the quality of public administration, the efficiency with which it works, and the cooperation which it evokes. The tasks facing the administration were larger in magnitude and more complex. The Plan placed emphasis on : (a) administrative leadership ; (b) integrity ; (c) efficiency ; (d) staffing arrangement for management of State industrial enterprises, and for dealing with land reforms and food administration ; (e) improvement of quality of recruits to the administrative services and better facilities for their training ; (f) establishment of O & M units at the centre and in the States ; (g) improvement of supervision and inspection ; and (h) better human relations, etc.

The Second Five-Year Plan recognised more clearly than the first one that administrative limitation was the most formidable,

which the government faced in its task of social and economic development. In a real sense, the Second Five-Year Plan resolved itself into a series of well-defined administrative tasks. These tasks it classified into the following eight categories : (1) ensuring integrity in administration ; (2) building up administrative and technical cadres ; (3) organising large-scale training programmes in all fields and mobilizing all the available training resources, including public and private institutions, industrial and other establishments, apprenticeship and in-service training ; (4) devising speedy, efficient and economic methods of work, providing for continuous supervision, and arranging for objective evaluation of results at regular intervals ; (5) carrying technical, financial and other aids to small man, as in agriculture, national extension and community projects and village and small industries ; (6) organising efficient management for public enterprises, as in industrial undertakings, transport services and river-valley schemes ; (7) securing local community action and public participation so as to obtain the maximum results from public expenditure, as in agriculture and in social services ; and (8) strengthening the co-operative sector of the economy through assistance in managerial and technical personnel and establishment of co-operative, financial, marketing and other institutions.

The Third Five-Year Plan hardly broke any new ground in public administration. The problems identified for attack in the first and second plans were not only in existence even then but also had become aggravated. However, it listed the following principal objectives to be realized in the field of public administration : (1) formulation of policies in clear-cut terms by Government and ensuring continuity in giving effect to them ; (2) clear assignment and responsibility for implementation with full appreciation of the objectives to be achieved at every level ; (3) ensuring every-day efficiency with speed and prompt disposal, including (a) proper training of personnel, especially middle-grade, (b) simplification of procedures through systematic work studies, and (c) effective supervisions of work at each level ; (4) continuing administrative leadership for securing steady improvement in administrative efficiency and standards ; and (5) ensuring in respect of important construction projects that the best results accrue for the expenditure incurred and there is integrity and economy at all points.

The Memorandum by the Planning Commission, which set out the tentative framework of the Fourth Five-Year Plan, emphasized that in each section of development and at each level, plans for achieving given objectives and outputs should be supported in detail by carefully worked out administrative and operational plans, which should specify tasks and responsibilities, define their sequence and provide for effective supervision and control. Such administrative planning should precede the acceptance by the Central and State



Governments of proposals for the Fourth Plan. The Memorandum suggested that at the Centre the Committee on Administration, suitably strengthened, be asked to formulate detailed proposals for strengthening administration and plan implementation, including proposals for review of procedures, for equipping various organizations in time to deal with the larger work loads of the Fourth Plan and for undertaking the requisite training programmes.

Some of the basic weaknesses in the process of implementation were identified from time to time. Thus the Administrative Reforms Commission, the National Commission on Agriculture, the Irrigation Commission and a large number of reports of special committees, task forces and evaluation studies brought out in detail the structural, procedural and institutional weaknesses and suggested specific remedies. In spite of this, there was no significant improvement in the levels of performance. While the steps taken or proposed to overcome the problems of implementation of the Plan in the various sectors below the apex level tended to be specific to those sectors, the steps required in regard to the Government departments themselves were broadly the same regardless of which sector of the plan they were responsible for. The development of the organisational framework has not kept pace with the increasing variety and complexity of the job that State and Central Governments have taken on. Rigid compartmentalisation in fields which require a high degree of integrated multi-disciplinary activity, excessively wide or narrow spans of control, lack of clear lines of responsibility, inadequate delegation of authority, and improper relationship and positioning of line and staff functions have all hindered plan implementation.

Several major organisational steps have been taken by Government to help implementation of Plan projects such as the creation of the Public Investment Board and the Projects Approval Board. The Project Appraisal Division and the Monitoring and Evaluation Organisation have also been set up in the Planning Commission. Another step that was taken by the Government on the recommendations of the Action Committee on Public Enterprises was to set up a new body for selecting the chief executives of public sector enterprises. A scientific system for selection, appraisal, training and career development for managers in public enterprises will be evolved and monitored by the new body referred to above. Next only to the need for good management, what public sector enterprises need is access to good consultancy services. Proposals for restructuring and strengthening the Bureau of Public Enterprises to do this and other tasks is under the consideration of Government.

While the process of induction of technological and other functional skills into departments is vital and must be accelerated, the need for coordination of such skills within a department cannot

be over emphasized. The technologists who have the potential for taking on a wider role could be trained for the coordinating function while those with a largely administrative background before being placed in departments which were technologically complex could be given some exposure to problems they will be required to deal with through a reorientation programme, if need be. To avoid expertise that is built up in this way from being lost, it would be necessary to have suitable career planning for such officers both at the Central and State level. Men of proven ability only, irrespective of their background, ought to be appointed to the highest policy-making levels of the Government. What is most important to recognize is the fact that the various wings of the Government constitute parts of one organic whole and they should function in unison to become effective instruments for carrying out Government policies.

While a significant amount of work has been and is being done in restructuring departments of Government at the Centre and in the State and reducing procedural delays much progress has yet to be made. An early start should be made by setting up monitoring and evaluation cells for each major industry in Central Departments of Government. Like-wise, expertise will have to be built up or inducted in developing and operating data banks, planning and project evaluation, pricing, licensing and other policy making and coordinating R & D. All of these tasks are too complex to be left to one or two individuals and require multidisciplinary groups drawn from operating organisations. There is no doubt that these groups would add a little to governmental overheads but if they are carefully recruited and properly directed, their cost would be a negligible fraction of what they could save the country within six months. Similar steps need to be taken by State Governments as well.

The efficient working of the State Industrial Development Corporations would guarantee quick and timely establishment of medium and large industries in the States' sector. A certain reorganisation and streamlining of their administrative and technical apparatus is called for. Persons with professional background and knowledge of industry should invariably be selected to head these organisations. On the Board of Directors, there should be technologists and men of experience. These organisations should have backstop arrangements with well-known consultancy firms to strengthen their capacities. They may also engage part-time consultants of high repute. The equity base of these organisations should also be strengthened so that they may be able to obtain necessary institutional finance to undertake a larger number of viable projects. The procedural hurdles, which slow down their work, must be eliminated.

One of the weakest areas in the implementational framework

is an effective concurrent monitoring and evaluation system at every level where executive functions have to be performed by Government or quasi-Government agencies, autonomous Corporations or boards, local authorities, panchayati raj institutions, etc. Unless effective systems of this kind are introduced, remedial action cannot be taken in time and delays, over-expenditure and inefficient operations are unavoidable. The specific steps on how these systems are proposed to be introduced are contained in Section III under 'Monitoring and Evaluation'.

The main objectives of the Monitoring and Evaluation (M & E) process is to assist implementing agencies in ensuring firstly that optimum use is made of facilities which have already been created and that any new projects which are undertaken are executed on time and within cost estimates. It is essentially a service function. The M & E process must begin at the level of the field projects and schemes as a service to authorities who would use it as a means of control on a day-to-day basis. The field authorities are responsible to a Central or regional organisations which in turn would choose a selected set of critical parameters to monitor the progress of the various projects under their control at less frequent intervals. Finally, there are often several such Central organisations under the control of a department of Government at the Centre or in the States where the ultimate responsibility for implementing the plan must lie. This responsibility will extend to organisations both in the public and non-public sector. The monitoring at the Government department level must thus necessarily be even more selective. An effective M & E system is intended not merely to keep the implementing agency adequately and properly informed about the progress of projects but to give advance warning of areas where potential bottlenecks or short-falls are likely to arise so that suitable remedial action can be taken in time. Where such remedial action calls for inputs/decision outside the purview of the implementing agency, these should be referred to the appropriate authorities in time for them to take corrective measures.

While a great deal of basic as well as operational research has been undertaken during the last two decades in relation to the economic and technical aspects of development, few studies have been taken up except under the auspices of the Administrative Reforms Commission, to develop insights in respect of the problems of motivation, communication, delegation and control, coordination and decision-making in government and quasi-government organisations. The result is that even though there is widespread feeling that the existing structures and procedures are not in consonance with the orientation and functions assumed by the government and other authorities, it has not been possible to plan scientifically the steps that are necessary to bring about a radical improvement in

administrative procedures, practices and attitudes. It was proposed, therefore, that adequate resources would be earmarked during the Fifth Plan Period for taking up exploratory, diagnostic and evaluatory studies in relation to the above mentioned aspects of administrative mechanisms functioning at various levels.

The past 25 years or so have been a period of explosions in population, education, expectation, economic development, political and social relationship. All these momentous changes and compulsions of a welfare state following a socialist ideology have tremendously added to the variety and complexity of functions devolving on the Government. The public services, on the other hand, have not been able to update their training and experience. They have their eyes fixed on the past and never peep into the future. By tradition and training, they work for rules rather than results. Just as tools and techniques are important for industrial production, procedures, methods of work and attitude of mind determine the efficiency and efficacy of an administrative organisation. Development without a well organised and effective bureaucracy is not conceivable in the developing nation. The Administrative Reforms Commission in its Report on Personnel Administration stated : 'A theoretically perfect administrative structure and unexceptionable methods of work may be devised, but they will be of little avail if those who man the administration are either unequal to their task or are apathetic to it.'

Again reviewing the current administrative situation, the Commission has stated that administration today is involved in formulation of policies and implementation of tasks—concerned with social welfare and economic growth, science and technology. Most of the burden of development is to be borne by the bureaucracy, therefore, most effective use of the human resources of the civil service must be made by canalising careers within it so as to produce the skills and competence needed for the work of government today and to maintain efficiency and morale at higher levels. The administrator's main functions now are to (i) meet changes as they arise and in so doing, identify the weak points; (ii) bring into fusion all the relevant available knowledge and skills; and (iii) evolve a course of remedial, structured action and take the steps required to carry these out. It has now been universally accepted that it is only the Government, which has to be the principal, planner, energiser, promoter and director of accelerated development effort.

## VII. IMPLEMENTATION OF PLANS

The First Plan was a success in as much as the modest targets set by it were achieved. The success of the Plan was partly due to the good monsoons and partly to the existence of an economic

climate which encouraged industrialists to make use of their full capacity for production. It created the feeling, both in the country and abroad, that a decisive break had been made with the stagnant economy of preceding years and that India, with the help of a fairly modest quantum of foreign aid, could really make progress. The Second Plan was conceived against the background of a more rapid advance towards a socialist society. It witnessed a considerable expansion of the public sector and a more positive use of the entire apparatus of controls at the disposal of government. The general index of industrial production had risen from 139 in 1955-56 (base year 1950-51) to 194 in 1960-61, while that of machine production had soared from 194 to 503.<sup>1</sup>

The report on the progress of the Third Plan during 1961-62 to 1963-64 is embodied in the Third Plan, Mid-Term Appraisal. The report highlighted the fact that the rate of growth of the economy and the increase in employment had been slow in the first half of the Plan period. While performance in some sectors like transport, power and education had been in accordance with the Plan or ahead of schedule, targets in some fields, such as machine tools, aluminium, cloth, coal, steel, iron ore, cement, fertilisers, irrigation, cotton, oil-seeds and foodgrains could not be achieved. National income in the first three years of the Plan increased (at 1948-49 prices) by a total of about 9·3 per cent including an increase of about 4·5 per cent in 1963-64 over 1962-63, as against an annual increase of 5 per cent postulated in the Plan. The per capita income (at 1948-49 prices) increased from Rs. 293·2 in 1960-61 to about Rs. 299·8 in 1963-64. A virtual stagnation prevailed in Indian agriculture, which contributed the largest proportionate share of the national output. The performance in the industrial sector was comparatively more encouraging. Several social service programmes, on the other hand, had been adversely affected due mainly to the diversion of funds to other programmes, economies enforced in view of the national emergency, as also the shortages of personnel and essential equipment.<sup>2</sup>

According to many critics the Third Plan was a failure. It is true that, during this period, India was subjected twice to external aggression—the Chinese aggression of October–November 1962 and the Indo-Pak conflict of 1965—and these completely upset both her plans and her economy, but even apart from these two unfortunate events, there were built-in weaknesses in the Plan itself. The Third Plan ended on 31 March 1966. Then there was a Plan holiday for three years. The Fourth Plan officially started on 1 April 1969, but it was not finalised until March 1970. The administrative burden on account of nationalisation was hinted at by Paul H. Appleby in

<sup>1</sup> Nabagopal Das, *Indian Economy under Planning*, 18-19.

<sup>2</sup> See *India*, 1965, 168-70.

his first Report. He observed : 'A rather fundamental choice must be faced between welfare objectives and doctrinaire nationalisation. The latter will deflect energies from welfare, will vestly overburden the Government's administrative capacity and will concentrate the problem of capital needs and lay those needs exclusively in the lap of Government. Inefficient management either due to lack of personnel or the choice of inefficients resulted not only in the waste of public capital and retardation of development but also in the growth of corruption.'<sup>1</sup>

It has been very aptly remarked that Indians are very good planners but had executors. This fact may very well be supported by the objectives and tasks embodied in the Five-Year Plans and the comparative lack of planning for implementation. Kamal Nayan Kalera has discussed this aspect in his article 'Evolution and Evaluation of Planners' Views.' A brief summary of his point of view is as follows :

What is the position the Indian planners have taken with respect to the question of plan implementation in the various plan documents ? In the First and the Second Five-Year Plans, the problems of plan implementation surfaced as one of public administration and its re-orientation to discharge the task of development administration. The Second Plan expressed explicit doubts about the capacity of public administration in this respect. It went on to categorise 'the principal administrative tasks' during the Second Five-Year Plan and discussed the questions of improving integrity, economy and efficiency in administration. Some attention was also given to the problems of public enterprises. But these views of the Planning Commission which tended to cover the question of plan implementation did not show an understanding of the question in the context of the overall planning process and its various steps. Had it been so, there would have been an analysis of the mechanism for obtaining performance and results from the agricultural and private industrial sector according to the plan targets for these sectors. It should also have contained an analysis of the vast distribution sector which is so highly decentralised and dispersed.

The Third Plan did move a little towards a better understanding of the problem of plan implementation as a multi-level process and it recognised that 'there has to be cooperation between different agencies and an understanding of the purposes of the Plan and the means through which these are to be secured.' It also recognised the need for effective communication and the existence of special problems regarding the private sector along with those of its vast unorganised segment. Then it added : 'By its very nature, a plan of

<sup>1</sup> Nationalisation led to a very large increase in the role of the public sector. A critical appraisal of the performance of the public sector has been given in the following chapter.

development necessarily involves the setting of targets and subsequent appraisal of fulfilment. Targets may provide useful indicators of progress, and may make for concentrated effort, but equally important are the specific measures and policies needed to realise them and their sustained implementation. This indicated something which may be called 'planning of plan implementation'.

The Fourth Plan formulation of the problem of plan implementation was better than the earlier ones. It said: 'The proper and timely implementation of plans has great importance in the planning process and is facilitated if the necessary steps are taken at the stage of formulation itself.' Listing the steps which facilitate plan implementation, it went on to add: 'These include the identification of organisations entrusted with particular aspects of implementation, establishment of specific responsibilities, determination of means or machinery through which these will be fulfilled, detailed planning for execution, development of information and control systems for appraising the progress as well as taking corrective action in time.'

The Fifth Plan draft is in many ways different from the earlier plans in respect of its treatment of the problem of plan implementation. While much greater attention has been given to this aspect, owing to the realisation of its critical significance, it is difficult to discover similar gains regarding the concept and analysis of implementation. Administrative problems, mainly relating to procedures, and based on the perception contained in the reports of the Administrative Reforms Commission, constitute the central focus of the formulation concerning plan implementation. This analysis concerns the specific issues faced by the Central and State Ministries and public and private sector undertakings. The main theme is how to get the projects completed according to schedule in order to meet plan targets. Going into the details of the various existing and contemplated implementing agencies, their objectives, functions organisational structures, procedures, etc., some sort of management manuals are prescribed in order to rectify some of the noticed shortcomings in the functioning of these units. Thus, the Planning Commission gets involved in a process of scrutiny and correction of the specific issues of internal management of the various public agencies.

'We have surveyed the position taken by the Planning Commission on the crucial question of plan implementation. We have also seen how the Planning Commission itself considers shortcomings in this field as basic bottlenecks preventing planning from becoming a really potent instrument of planned economic development. The question is: how to improve the performance of plans through overcoming the implementation bottleneck. While it may not be reasonable to pin hopes exclusively on more effective implementation,

it is our contention that a great deal can be done by bridging the chasm between plan-formulation and plan implementation through undertaking planning of plan implementation. Our main criticism of the planners' position on implementation is that it has not consciously and operationally realised the nature and importance of planning of plan implementation which is a pre-condition for ensuring effective implementation.<sup>1</sup>

Planning cannot succeed unless planners consider it an integral part of their task to establish the kind of administrative systems which can formulate and carry out development plans realistically. But this is rendered difficult by the persistent gap between the kind of administrative reform which is needed and that which is possible. 'Basic to proper implementation of plan programme is pre-investment planning. This needs to be carefully undertaken before embarking on any large industrial project. Such a task would involve an analysis of availability of resources, resources potential identification of programmes and their preliminary formulation followed by feasibility studies covering such aspects as demand analysis, technical development, cost estimates, profitability analysis, assessment of national project reports in order to provide for realistic time-table for construction and requirement of materials, and manpower and training of personnel. All these steps are necessary to ensure that the projects move successfully towards the achievement of end objectives.'

Another task of importance is the need for efficiency and economy in project construction. There is need to improve contracting procedures as many of the projects are undertaken through contracts. Effective management, in order to ensure proper integration of contract activities with the achievement of overall objectives of project plans, must be ensured. Improvement in efficiency and reduction of costs should necessarily form a continuing objective of project management. Another essential condition for the success of plan implementation is the need for requisite efficiency in administration so that it is possible to get increased output from investment in programmes. Administrative efficiency and innovations will continue to play a great part in our planning process and underline the need for taking steps to improve standards. Improvement of a vast administrative machinery spread throughout the country at the Centre and in the States will have to be a continuous process. Our administration affects the lives of millions all over the country. At all stages in the planning process, it is necessary that the level of efficiency is able to meet the requirements of plan implementation. Implementation, in its widest sense, in this context may involve not only application of techniques hitherto unused, but, more importantly, an approach concerned with achievement within time and

<sup>1</sup> See *I. J. P. A.*, April-June 1976, 249-54.



cost parameters.

The need to re-organise planning and administrative procedures to achieve responsive action and initiative at each point in implementation needs to be stressed all along. There are a number of elements which weaken administration in this context. *Firstly*, the objectives of policy and criteria and tests to be adopted are often not stated explicitly. *Secondly*, there is sometimes insistence on elaboration of the operational aspects of a plan on the part of those charged with proper implementation. This, if stressed, should not be regarded cumbersome but viewed as an important requirement for plan implementation. The operational plan must indicate the exact stages as also detail out the path along which implementation is to be done. It appears that in plan implementation we are insisting on employing old tools for new tasks of implementation.

There should also be cost consciousness in framing programmes so that it permeates throughout the different levels of implementation. It is often noted that important programmes are conceived on the basis of 'no profit, no loss' when the formulators of the projects and programmes have no idea about the inherent costs which need to be taken into account for computing the profit and loss figures. Indirect costs, such as depreciation, interest on capital and cost of supervision are not taken into account while framing the proposals. This underlines the need for a realistic appraisal of the inherent costs which will ultimately determine the profitability or otherwise of a programme.

'The role of people in implementation of plan policies and programmes must not be underestimated. Development planning, which embraces implementation of plan programmes, involves not only the preparation of a compendium of projected public and private decision-making covering the relevant aspects of production, consumption, savings and investment but a change from old patterns to new modes of behaviour and new techniques of production. This is possible only with the active participation of the people as well as the acceptance of the new modes by them. Social awareness and acceptance of the various programmes is, thus, as important an element as their economic viability.'<sup>1</sup>

<sup>1</sup> See P. P. Agarwal, 'Some Aspects of Plan Implementation', *I. J. P. A.*, January-March 1973, 17-24.

## CHAPTER XVII, PUBLIC UNDERTAKINGS

### I. IMPORTANCE AND GROWTH

#### IMPORTANCE

The modern trend is in the direction of 'bigger and bigger government', with the result that most progressive states have given up the negative role and state intervention of a positive kind has become a common feature. Developing countries often have no alternative to entering the field of industrial and commercial enterprise if they wish to increase their productivity and the general standard of living. Even those which have preference for as much private enterprise as possible may lack the necessary capital accumulation and an entrepreneurial as well as managerial class. The following are some of the reasons why government assumes responsibility for fostering public enterprise : to accelerate national development; to increase productivity and employment and rise in standard of living; to provide sources of credit to finance agricultural and industrial production and trade; to provide basic services as a foundation for industrial growth in the public utilities such as power, water transportation and communication ; to reduce dependence on foreign capital and management by the purchase of foreign-owned enterprises; to render a needed service which is unprofitable under strictly private operation; and as a matter of national policy to ensure government control of certain sectors of the economy.

It is generally admitted that ownership of most of the natural resources, means of production and big industries should increasingly vest in the State. The concept of planned economy has strengthened the case for public ownership. The Directive Principles of State Policy, enshrined in the Constitution of India, lay down that : (i) the ownership and control of the material resources of the community should be so evenly distributed as to subserve the common good, and (ii) the operation of the economic system should not result in the concentration of wealth and means of production to the common detriment.

The Industrial Policy Resolution of April 1956 emphasised the key role of the public sector in setting up new industrial undertakings in the following words : 'The adoption of the Socialist Pattern of Society as a national objective, as well as the need

for planned and rapid development required that all industries of basic and strategic importance, or in the nature of public utility services, should be in the public sector. Other industries which are essential and require investment on a scale which only the State, in present circumstances could provide, have also to be in the public sector.' On 3 February 1973 the Government again emphasised state participation in the industry. As pointed out in the Industrial Policy Resolution the adoption of the socialist pattern of society as the national objective, as well as the need for planned and rapid development, require that all industries of basic and strategic importance, or in the nature of public utility services, should be in the public sector. Other industries which are essential and require investment on a scale which only the state, in the present circumstances could provide, have also to be in the public sector.

'The philosophy of socialism as the economic and political goal of the country, pushed more industries under the umbrella of the public sector. Government assumed responsibility for setting up basic industries to provide the industrial base to lift the economy to higher levels of growth. More and more industries vital to national growth were included in the public sector. Huge financial resources and foreign exchange were required. The State alone could mobilise enormous financial resources and foreign exchange on such a scale and in an effective manner, taking into account the totality of the needs of the country.' Technical know-how and foreign exchange supplies also required prolonged and constant follow-up with the governments abroad. Detailed planning and negotiations with foreign agencies could be done only through a centralised agency and the most suitable one was the government.

In addition to the above there were implicit objectives also. Better customer service and economies in bulk purchasing were expected. Massive purchases by government undertakings through agencies like Directorate General of Supplies and Disposals could facilitate rate contract arrangement for several items with hundreds of suppliers and obtain maximum concession. The benefits from this could be passed on to the consumers by way of low prices through low production costs. Government had declared its policy to develop and encourage small-scale industries to promote employment and rural development. Considerable encouragement could be given to small-scale and medium scale industries whose products in so far as they served the need, could be purchased by the undertakings. Finally, public enterprise can contribute to the country's exchequer. The limit for raising funds from taxation has been realised, as taxation has already reached the maximum point of burden, straining the capacity of the tax-payer. The plans require several thousand crores of rupees for financing investment and

programmes. Deficit financing, though unavoidable, causes inflation and prices shoot up.<sup>1</sup>

#### GROWTH OF PUBLIC ENTERPRISES

'Before independence, India fulfilled primarily a complementary role in the economy of the British Empire.... Towards the closing years of the Second World War, there was recognition that the vast industrial potential of the country should be mobilised in a planned and regimented manner. A Department of Planning was therefore created in 1944 with this purpose in view. The National Government in 1947 brought about, however, a new sense of urgency to this vital question.' The Government policy in the matter was laid down in detail for the first time in the Industrial Policy Resolution of April 1948, which clearly defined Government's objective as promoting a rapid rise in the standard of living of the people by exploiting the natural resources of the country and by increasing production. The Industrial Policy Resolution of 1956 'gave a new orientation and meaning to the role of the State in India's industrial development.'<sup>2</sup>

Soon after independence, the Government of India announced the Industrial Policy Resolution of 1948, which declared that India should adopt a dynamic national policy directed to achieve a continuous increase in production and to secure its equitable distribution. This was to be attained through a mixed economy consisting of the public and private sectors and in which the State was to play a progressively active role in industrial development. Each sector was to have a well-defined field of industries to develop and a definite role to play, each complementing the other. The State was to have exclusive monopoly in the manufacture of arms and ammunition, production and control of atomic energy and the ownership and management of the railways. In six basic industries—coal, iron and steel, air-craft manufacture, shipbuilding, mineral oils and manufacture of telephone, telegraph and wireless apparatus (excluding radio receiving sets)—the responsibility for setting up new undertakings was to remain with the Government.

Thus the rapid expansion of public industrial enterprises is a post-independence phenomenon. Even before 1970, the total investment in the private sector exceeded investment in the public sector. But the share of the net output of government enterprises in the total net domestic product of India was quite small—only 5.4 per cent in 1962. It is noteworthy, however, that this share rose from 2.8 per cent in 1941–49 to 5.4 in a decade. Public investment and investment in public sector industries has formed the core of planned development in India since 1951. Over the three five-year plans, there had

<sup>1</sup> T. Ramaswamy, *Public Enterprises in India*, 4–8.

<sup>2</sup> Asok Chandra, *Indian Administration*, 194–95.

been a total public outlay of Rs. 14,060 crores, out of which public sector investment accounted for Rs. 11,510 crores. Public investment in organised industries and minerals alone accounted for Rs. 2,589 crores in these sectors. The memorandum on the Fourth Five Year Plan envisaged a total public outlay of Rs. 15,620 crores and a public investment of Rs. 12,995 crores during 1966-71, compared with private investment of Rs. 6,980 crores.<sup>1</sup> The following table gives this total investment and the number of units during the period, 1951-68 :

#### GROWTH OF PUBLIC ENTERPRISES

(Rupees in crores)

Year	Total Investment	Number of Units
1951	29	5
1956	81	21
1961	953	48
1966	2415	74
1967	2841	77
1968	3333	83

Sources : T. Ramaswamy, *Public Enterprises in India*, 3.

As a result of the massive investment in the public sector over the plans, public sector enterprises came to occupy about a decade back a dominating position in the industrial sphere of the economy. Today, public sector undertakings occupy a pivotal role in the national effort at rapid economic development. Their efficient management and proper growth is, therefore, of highest importance, with a view to preventing fragmentation of industrial effort in the public sector and providing integrated development, the ARC, in its report on the subject, submitted to the Prime Minister on 17 October 1967, recommended the setting up of sector corporations in eight industrial and manufacturing areas as well as for air transport, shipping, hotels and tourism.

But the Janata Government proposes to make a change in the role of the public sector. In pursuance of its policy of expanding the small sector, the Industries Minister, George Fernandes, laid on the table of Parliament, Government's industrial policy statement on 23 December 1977. A brief summary of the same is as follows :

The utilisation of the country's massive manpower, the promotion of cottage and small-scale industries, regional dispersal of factories and new procedures combining flexibility with control over large industrial houses and foreign firms are the highlights of the government's industrial policy statement.

The number of items reserved for production by small-scale units has been increased from 180 to 504. No industrial licence will

<sup>1</sup> G. S. Bhalla, *Financial Administration of Nationalised Industries*, 2.

henceforth be given for any new industry within the limits of cities with a population of five lakhs or more as per the 1971 census. No more capacity will be created either in the mill or powerloom sector for textile production. Compulsory export obligations are being abolished. Quantitative restrictions on imports will be lifted consistent with Plan priorities.

The 1956 Industrial Policy Resolution has not been rescinded and therefore continues to be in force. Several industrial policy statements had been made since 1956 without having to rescind the resolution, and this was no exception. However, it was open for the government to replace the 1956 resolution with a new one based on today's statement.

The emphasis had also changed. The 1956 resolution aimed mainly at widening and deepening the industrial base, objectives which were perhaps appropriate for that time but which could no longer be regarded as sufficient today. The growth of industry would now be directed at utilising manpower, helping agriculture and rural development, dispersing industry and redistributing income to the poorer sections. It was in this new context that cottage and small-scale industries had attained a position of vital importance instead of being merely supplemental to large industries.

There is no special reservation for cottage industries, but the government will consider introducing special legislation to protect such units. Within the small-scale sector, it has been decided to recognise a 'tiny sector' where investment is below Rs. 1 lakh and the unit is situated in towns with population less than 50,000. Such tiny units will be given special facilities, such as margin money assistance.

The Khadi and Village Industries Commission will work out detailed plans. The list of items looked after by the commission will be expanded. A breakthrough appears imminent in a khadi-polyester blend called 'nai khadi', which will improve both employment prospects and earnings in the cottage sector. Along with khadi the government will ensure ample supplies of yarn for handloom weavers by increasing the spinning capacity of textile mills, if necessary. Certain kinds of textiles will be reserved for the handloom sector in addition to those already reserved, and the government will ensure that reservation is properly enforced, which has not been the case so far.

The policy statement recognises that the development of agriculture, small industries and large industries is inter-related. 'There is a clear role for the large-scale industry', but not merely for demonstration of sophisticated skills or as monuments of irrelevant foreign technology. 'The role of the large industry will be to meet basic needs, help dispersal of small industry, and strengthen agri-

culture. In general, areas for large industries will be : (a) Basic industries which are essential for providing infrastructure as well for development of small and village industries such as steel, non-ferrous metals, cement, and oil refining. (b) Capital goods industries for meeting machinery requirements of basic industries as well as small-scale ones. (c) High technology areas needing large-scale production, and which are related to agriculture and small-scale industries, such as fertilisers, pesticides and petrochemicals. (d) Other industries outside the list of reserved items for the small-scale sector which are considered essential for the development of the economy such as chemicals and machine tools.

The public sector 'has come of age' providing countervailing power to the growth of large houses and socialising the means of production in strategic areas. The public sector will continue to expand, not only in basic and strategic industries but also in consumer goods to ensure essential supplies. It will help develop ancillary units and other small industries.

As for larger industrial houses, the statement affirms that no unit or business group will be allowed to gain a dominant or monopolistic position in the market. The provisions of the Monopolies and Restrictive Trade Practices Act will continue to be applied, and with fewer exceptions than in the past. At the same time 'a certain measure of growth of existing enterprises is inevitable and also necessary for the continued health of these enterprises.'

The statement observes that the growth of large houses has been disproportionately rapid compared to their internal resources, as they have depended largely on funds borrowed from public financial institutions. In future they will be expected to raise a higher proportion of funds themselves, and the debt-equity norms for them will be tightened so as to reduce their dependence on borrowings. They will still be granted an 'appropriate' debt-equity ratio for capital-intensive industries like fertilisers, papers, cement, shipping and petrochemicals. Large houses will not be eligible for any licensing exemptions save those related to automatic capacity growth in certain industries.

Under the new policy, large houses are no longer restricted just to a list of priority industries and export-oriented industries where they export at least 60 per cent of output for five years. It has been found that their being limited to capital-intensive industries has merely speeded up their growth. As for export-oriented ones, there was a time when foreign exchange was regarded so scarce as to get very high priority, and large houses were sometimes allowed to enter areas reserved for the small-scale sector on export grounds, even though the commitment was valid only for five years.

The pricing policy of the government will ensure reasonable price stability as well as sufficient surpluses to give adequate return

to the investor. Exorbitant profits will not be permitted to firms working in monopolistic conditions. But profits should be enough to enable large houses to expand on the basis of internal resources.

The statement recognises that marketing is a major problem of small-scale units, and promises the maximum possible government support for such activities. Government departments and public sector undertakings will help by earmarking certain items exclusively for purchase from small units, while in other cases a price preference will be accorded to them.

To provide effective financial support, the Industrial Development Bank of India will set up a separate wing to deal exclusively with the credit requirements of this sector. Banks will also be expected to earmark a specific proportion of total credit to small, village and cottage industries.

In the past there has been a proliferation of schemes to help this sector which have not been coordinated. In future, district industries centres will be created in every district which will provide different forms of help under one roof. The centres will have close links with development blocks, banks and specialised institutions.

The new policy stresses the need to continue to support both export and import industrial goods. The favourable foreign exchange situation has made it possible to lift quantitative restrictions on imports while retaining tariff protection. Imports will be relaxed where restrictions are hurting rather helping industries by unduly delaying critical projects and raising costs. Indian firms will be given all possible assistance in improving their technology and competitive position.

Sickness in industry has been a disturbing feature recently. The government cannot go on taking over sick units, and will do so only very selectively. The objective will be to nip sickness in the bud by better monitoring.

The need for workers' participation in management, streamlined administrative procedures, development of indigenous technology and establishment of joint ventures abroad have also been mentioned in the statement.<sup>1</sup>

## II. VARIOUS FORMS OF PUBLIC UNDERTAKINGS

### REVENUE PRODUCING SERVICES

These services are those 'whose function is to render a service or supply a commodity for which a charge is made proportionate to the value of the service or commodity supplied, for example, railways, posts and telegraphs, state canals and tube wells, various public corporations, etc. It is necessary that these services enjoy

<sup>1</sup> *The Times of India*, 23 December 1977.



both financial and the administrative autonomy. Each of these services should have its own property, its own treasury system, its own independent system of operating accounts and its own budget. In regard to administrative autonomy the legislature, while setting up such a service should pass the organic act, defining its jurisdiction, powers and duties. It should have its board of directors, its directing staff and personnel, and its own plan and equipment, etc.

It is in this context that the theory of corporatic autonomy finds its earliest expression in Willoughby's concepts of 'holding' and 'subsidiary' corporations. According to him the central government as a holding corporation should set up public or quasi-public corporations for the various revenue-producing enterprises. The central government, as principal, should concern itself with the operations of its agents (subsidiary corporations) from general standpoint of policies and the direction their activities take. It should require from them complete and detailed information; it should give formal approval to their annual work programmes and budgets; and it should appropriate their surplus earning as it should also be responsible for any deficit resulting from their operations. But it should not seek to determine in detail the organisation and procedures of such bodies.

State holding companies are wholly owned by the State, have juridical personality and enjoy managerial as well as budgetary autonomy. The holding companies do not partake in any phase of production but serve to finance and direct the operations of the companies which they control by means of majority share-holding, making sure that their overall activities are co-ordinated in a fashion promoting the specific public ends determined by ministerial directives. Productive activity is entrusted to companies wholly or partially state-owned. Partially state-owned companies or mixed companies include a wide range of undertakings in which state participation varies from majority to minority share-holding which, nevertheless, maintain their private character. They are divided into homologous (*i.e.* functionally oriented) groups and are usually placed under subsidiary holding companies whose share capital is fully or in the majority subscribed to by state holding companies.<sup>1</sup>

The terms 'holding' and 'subsidiary' may also be used in another sense. A holding company or corporation is in the nature of a sector corporation as suggested by the Administrative Reforms Commission. The new 'Holding Company' organisation is in a way an adoption of the ARC recommendation regarding the setting up of the sector corporations, in a more modified form. It differs from

<sup>1</sup> George Maniatis, 'Executive Control over State Holding Companies and their Subsidiaries in Italy', *I. J. P. A.*, October-December 1966, 744.

the concept of sector corporation in that the Holding Company is not constituted under a statutory act of the Parliament. It still very much operates under the Indian Companies Act of 1956. While in many countries like UK and Italy such companies have been set up under an Act of the Legislature, in India the company form has been adopted as it ensures greater flexibility in operation. The most important holding corporation in India is SAIL.

It is claimed that the holding company form of SAIL would :

- (a) promote coordination of all activities leading to the production of steel both in the existing iron and steel industry and in the development of raw steel plants. It will be valuable to have in one place a centralised body which would carry out such coordination.
- (b) The holding company will be manned by professional and technical people, who would have the proper background for running the organisation. Consequently, there will be reduction in the type of directives that the Ministry of Steel presently issues to the Steel Plants.
- (c) Such a company would help develop a steel cadre within the company. With the experience gained of this type of organisation of public undertaking there are proposals for establishing other holding companies like the Fertilizer Authority of India Ltd. (FAIL).<sup>1</sup>

Patterns of Management other than the Government Corporations are government departments, government companies/mixed corporations. However, the question of relative merits and demerits of the various pattern of management may be touched here. Under the departmental pattern, enterprises are owned and managed as government departmental e.g., Railways and Posts and Telegraphs in India. The most important feature of this system is absolute governmental control and responsibility. The system had already been in existence in India; and has been extended. Now, besides railways and posts and telegraphs departments, defence industries State trading, the Hirakud and Bhakra-Nagal multi-purpose projects, Chittaranjan Locomotive Works, D. D. T., Penicillin, and National Instrument Factories, etc., are thus managed.

The departmental pattern on the whole is considered as outdated and stands discredited for the following reasons : *First*, it is contended that by its very constitution, it is likely to be inefficient. Due to government's full responsibility for such enterprises, there is strict parliamentary control and searching criticism on the floor of the legislature. As observed by Herbert Morrison, meticulous political supervision would tend to lead to excessive caution, slowness and red-tape. *Secondly*, the pattern would convert industrial democracy into a strong-hold of bureaucracy, and bureaucracy is incapable of handling industrial enterprises by temper,

<sup>1</sup> R. B. Jain, *Contemporary Issues in Indian Public Administration*, 216.

training and experience.<sup>1</sup> However, the system is suitable : (a) for concerns where secrecy is a virtue or which are basic to security, e. g., defence industries, posts and telegraphs, and (b) for such industrial concerns as involve abundance of governmental discretion, e. g., state trading in food-stuffs.

The characteristics of a departmental undertaking may briefly be summarised as follows : (i) It is financed by annual appropriations from the treasury and all or a major share of its revenue are paid into the treasury. (ii) It is subject to budget, accounting and audit controls applicable to government activities. (iii) Its permanent staff consists of civil servants. (iv) It is organised as a major sub-division of the central departments of government, which are subject to direct control of the head of the department. (v) It can be sued, only by the prescribed procedure for suits against government.

Another method of management of state enterprises is through a mixed corporation or a dependent government company, wherein the Government is the sole or majority shareholder. In India there are a number of private limited companies, which are organised under the regular company law. These companies have not been received with approval by the Estimates Committee of Parliament or by independent writers. The company form amounts to running purely commercial and industrial enterprises through civil servants. They are in fact, the 'babies' of the various Ministries.<sup>2</sup> In regard to a mixed enterprise, W. A. Robson observes : 'In theory at least it would seem more likely to produce the worst of both worlds rather than the best, since the motive of public service and private profit-making are incompatible.'

The characteristics of a government company are : (i) It has most of the features of a private limited company. (ii) The whole of the capital stock or 51 per cent or over is owned by Government. (iii) All the directors or a majority of them are appointed by Government depending on its share of capital. (iv) It is a body corporate created under a general law *i.e.* Companies Act. (v) It can sue and be sued, enter into contract, and acquire property in its own name. (vi) It is created by an executive decision without Parliament sometimes getting an opportunity to discuss or approve before-hand its objectives of its necessity. (vii) The Articles of Association are drawn up by Government and can be revised by them. (viii) Its funds are provided by Government. It can retain the revenue derived from sales of its goods and services. (ix) It is exempt from government personnel, budget, accounting, and audit

<sup>1</sup> See I. Narain, 'Management of Public Enterprises', *I. J. P. A.*, Vol. XII, No. 4, 406.

<sup>2</sup> A. Prasad, 'The Theory and Practice of the Public Corporation in a Democracy', *I. J. P. A.*, Vol. VI, No. 1, 33-34.

laws and procedures. (x) Its employees, excluding deputationists, are not civil servants.<sup>1</sup>

A government company may be wholly government owned or it may be a mixed enterprise with minority shares issued to local or foreign interests. This form of organisation is usually employed either to attract private capital or to acquire shares of an existing private enterprise in an emergency, or to launch a new enterprise and put it on its feet with the ultimate intention of disposing of all or part of it to the public. But in India the company form of organisation has been used widely for setting up fully government-owned commercial, industrial and financial enterprises. In the case of a mixed enterprise, the Government usually reserves, substantial interests and powers and restricts the powers of other share-holders through controlling more than fifty per cent of shares, or by acquiring certain special powers over profit distribution and capital structure through the Articles and Memoranda of Association, or sometimes through passing special statutes.

In India most public enterprises have been set up as joint stock companies. This form of organisation is not merely confined to industrial and commercial enterprises, as many financial, developmental and promotional enterprises have also been set up as joint companies. These companies have been set up under the Indian Companies Act and are generally wholly Government-owned, and all the shares are held by either the President of India or by the respective State Governments. Some companies have, however, allowed minority private Indian and foreign participation. There are at present 60 central government enterprises that have been incorporated as government companies as defined in Section 617 of the Indian Companies Act, 1956. Forty-eight out of these sixty companies are wholly government owned. The rest are mixed enterprises, which provide for central government, state government, private Indian and private foreign participation.<sup>2</sup>

Among the company form state enterprises of the Union Government, the biggest and the most important is the Hindustan Steels Ltd. Its Board of Directors at its meeting held in Ranchi on 26 February 1970, adopted a Statement of Objectives, based on the important national goal of encouraging and ensuring rapid economic growth through efficient production and supply of high quality iron and steel goods. The objectives stem from the following major premises : (1) As a public undertaking accountable to the people of India, the Company will strive to serve the national interest in discharging its responsibilities and will constantly seek to deserve and enjoy the highest measure of public trust and esteem. (2) In conducting its business with honesty and integrity, the company will

<sup>1</sup> See N. N. Mallya, *Public Enterprises in India*, 92.

<sup>2</sup> G. S. Bhalla, *op. cit.*, 76-77.

also endeavour to function as a profitable enterprise working towards the achievement of a self-reliant and self-generating economy. (3) The Company will operate in the highly specialised fields of iron and steel and allied manufacture.

#### GOVERNMENT (PUBLIC) CORPORATIONS

The Government corporation, like the administrative commission or agency, is a relatively new but widely used instrumentality of government. Although occasionally employed in earlier periods, it is essentially a twentieth-century device. A government corporation exists either when there is governmental ownership of all or a controlling part of the shares of stock of an incorporated business entity or where a non-stock entity is declared by law to be a public corporation. The entity may have three basic responsibilities: (i) It may be engaged in providing economic goods or services that otherwise might not be made available to the public. (ii) It may regulate by competing, *i. e.*, it may provide certain goods or services and thus compel private enterprises to meet the competitive prices or charges of the government corporation. (iii) It may engage in purely regulatory activity.

According to Pfiffner, 'A corporation is a body formed for the purpose of enabling a number of persons to act as a single person. Thus, the corporation is viewed as an artificial person, which is authorised by law to carry on particular activities and functions.'<sup>1</sup> In the words of Ernest Davies: 'The public corporation is a corporate body created by public authority, with defined powers and functions and financially independent. It is administered by a board appointed by public authority, to which it is answerable. Its capital structure and financial operations are similar to those of the public company.'<sup>2</sup> Robson regards it as 'the appropriate instrument for operating nationally-owned undertakings requiring management of a commercial or industrial character.'<sup>3</sup> Its two broad features are: (i) It is a corporation in the sense that it has the flexibility and initiative of private enterprise, has freedom of administration and finance, of accounting and purchasing and has power to recruit its own personnel and to sue and be sued in its corporate name, (ii) It is public as distinguished from private. The government (or public) corporation system is a middle way intended and designed to give the best of both worlds—possible public control over major policy and commercial freedom in organisation and management.

Some of the important characteristics of government corporations are as follows: (1) It is a separate legal entity; it is distinct

<sup>1</sup> J. M. Pfiffner, *Public Administration*, 114.

<sup>2</sup> A. K. Murdeshwar, *Administrative Problems relating to Nationalisation*, 15.

<sup>3</sup> W. A. Robson, *Problems of Nationalised Industry*, 17.

from the government which created it. It has a corporate charter or franchise, which confers powers upon it. It may do whatever its character authorizes. (2) The Government corporation is noteworthy for its extreme flexibility, not only of function and operation but also with regard to the ease with which it can be created and dissolved. Thus it is ideally suited to times of stress and emergency. It may be quickly created by statute or executive order. (3) The government corporation has a business like structure and is headed by a board of directors having complete and independent control over all its affairs. (4) Some but not all government corporations are free from auditing and other government fiscal controls. Some are free to hire their personnel without regard to civil-service rules. (5) The government corporation need not adhere to the separation-of-powers concept. It is organised to get action through the concentration of authority in a small board of directors. It is similarly free from the strictures of the theory of checks and balances. (6) The government corporation may sue and be sued; but it does not share the immunity from suit enjoyed by governmental instrumentalities.<sup>1</sup>

Having detailed their principal characteristics and examined the merits and demerits of each of the three types, we may say that the points of agreement and disagreement between the three may be said to revolve round three major concepts : (a) their accountability; (b) their control; and (c) their autonomy. The Industrial Policy Resolution of 1948 envisaged that the management of State enterprises will, as a rule, be through the medium of public corporation under the statutory control of the Central Government. The revised resolution of 1956 did not modify that policy but on the other hand added to the number of industries in the State-owned category. There is no other subsequent declaration of statement in Parliament made on behalf of the government which can be said to have modified or changed that policy. Of the eighty-three public enterprises within the purview of the Parliamentary Committee on Public Undertakings, with the exception of seven, all others are in the company form. The reason adduced in defence of this position is that legislation and legislative amendment is a cumbersome process and each time any amendment is necessary it would raise political controversies about its performance which might result in lack of flexibility in matters of policy and operation of the industry.

The Administrative Reforms Commission in its report on Public Sector Undertakings considered the question of a suitable organisational structure for public enterprises. The Commission also pointed out that the original intention (as evidenced in the Industrial Policy Resolution of 1948) was to set up public undertakings in the form of Statutory corporations. But the principle was

<sup>1</sup> See Rodee et al, *Introduction to Political Science*, 493-94.

abandoned later 'as the company form with the flexibility it provides for subsequent reorganisation appeared to have appealed to the Government. The Commission in their report recommended as follows : (1) The form of a statutory corporation should in general be adopted for public sector projects in industrial and manufacturing field. (2) For projects in which there is an element of private participation the government company form may be adopted. (3) Promotional and developmental agencies should, as far as possible, be run as statutory corporations or departmental concerns. (4) Undertakings which are predominantly trading concerns or which are set up to improve and stabilise particular areas of business may have the company form.

The Administrative Reforms Commission went a step further and suggested the setting up of 'Sector Corporations'. The Commission grouped the industrial and manufacturing concerns of the Government as follows : (1) Iron and Steel, (2) Engineering and Machine Tools, (3) Electricals, (4) Coal and Lignite, (5) Petroleum and Petro-chemicals, (6) Mining Ferrous and Non-Ferrous Metals, (7) Fertilisers, and (8) Chemicals and Drugs. In addition to these the Commission suggested sector corporation for, (9) Aviation, (10) Shipping, and (11) Electronics.

The Commission summarised the advantages of such corporations as follows : (1) It will avoid the fragmentation of the industrial effort in the public sector; (2) It will reduce span of governmental control as functions per se coordination will be taken care of by such corporations; (3) It will make government control more effective by keeping it confined to a few and strategic points; (4) It will help to achieve economies of large-scale operations and the establishment of otherwise expensive organisations and common service facilities in the field of research, consultancy, training of personnel, and sales promotion; (5) It will lead to better personnel management, uniformity in the terms and conditions of service of employees, wider prospects for the managerial and technical personnel and development of managerial resources in the public sector. In regard to this recommendation the Government stated that they did not consider the setting up of sector corporations should be accepted in principle. However, Government recognised that in certain circumstances there might be advantages in having sector corporations; such cases should be considered on their merits.<sup>1</sup>

### III. IMPORTANT PUBLIC ENTERPRISES

In the country, a number of enterprises are being run as Government departments. The important ones are : The Railways and its constituents, Chittaranjan Locomotives and the Integral

<sup>1</sup> N. N. Mallya, *op. cit.*, 95-97.

Coach Factory, the Post Office, All India Radio, the River Valley Projects, the Ordinance Factories, State Irrigation and Electricity Schemes, etc. There are 33 other minor government enterprises managed departmentally by the Central government. The finances for the construction of State railways and the purchase of private railway companies over a period were provided by the Government of India out of the General Revenues. Until 1924 the Railway finances in India formed a part of the General Revenues of the Government of India. By the Separation Convention of 1924, the Railway finances were separated from the General Revenues. It is for this reason that the Railway Budget is passed separately.

The Post Office in India is also being run as a government commercial department. Until 1925 the Posts and Telegraphs Department did not maintain any separate trading accounts. The Department was reorganised in April 1925 and was required to maintain accounts on a commercial basis. Most of the bigger river valley projects, which are under inter-state jurisdiction, have been set up as Control Boards. The notable exception is Damodar Valley Corporation (DVC), which was set up as a Corporation. The Control Boards are only a modified form of government department organisation. The Boards are particularly helpful in arriving at quick decisions, which are subsequently ratified by the respective state governments. The Control Boards are in overall charge of technical, financial and administrative matters relating to the projects; although the actual construction was carried out by the Chief Engineers of the respective States. As in all other Government departments, the finances for these projects are provided through annual appropriations by the legislatures of the respective State governments. As the initial outlay is often beyond the resources of State governments, the Central Government often makes a long-term low interest loan to the State Governments to enable them to finance these giant works. Finances are provided in the annual budgets in accordance with the phasing of execution of the project.<sup>1</sup>

The growth of public enterprises has taken place in two ways : (a) by taking over or 'nationalizing' existing undertakings, and (b) by starting new enterprises. In the former category, we may include setting up of (1) the Indian Airlines Corporation (by taking over eight existing private undertakings operating scheduled air services in India and to neighbouring countries) and Air India (by taking over the operation of Air India International Ltd., a private sector company) in June 1953; (2) the State Bank of India (by taking over the Imperial Bank of India, the largest joint-stock bank in the country) in July 1955; (3) the Life Insurance Corporation of India (by taking over 245 private companies doing life insurance business) in September 1956; (4) the Shipping Corporation of India (by taking

<sup>1</sup> G. S. Bhalla, *op. cit.*, 57-61.



over some existing companies) October 1961; and (5) the nationalisation in July 1969 of 14 major Indian Banks with deposits exceeding Rs. 50 crores. Mention may also be made of the taking over by the Government of the Mazagaon Docks in April 1960, Hindustan Shipyards in July 1961 and a few other enterprises on account of their alleged inefficiency.

In the field of starting new undertakings the Government has extended its sphere widely. The target at first was 'heavy' and 'strategic' industries, but very soon state units came into existence in light and medium industries. The most important of these is Hindustan Steel Ltd. controlling the four steel plants (at Rourkela, Bhilai, Durgapur and Bokaro). It is at present the largest manufacturing corporation in the country, having a total rated capacity of nearly 6 million tonnes. Then come the National Coal Development Corporation, the Heavy Engineering Corporation, the Fertilizer Corporation of India, the Neyveli Lignite Corporation, the Indian Oil Corporation, Bharat Heavy Electricals, Hindustan Aeronautics and so on—all told Rs. 2101 crores have been invested in some 91 concerns. On 31 March 1970 capital investment in the economic enterprises of the Central Government was Rs. 4,301 crores (equity capital Rs. 2101 crores and long-term loans Rs. 2200 crores). Besides these, there are a few enterprises engaged mainly in financing industry and trade. An idea of the progressive increase in investment in all Central Government enterprises may be had from the following table :

CAPITAL INVESTMENT IN ECONOMIC ENTERPRISES  
OF THE CENTRAL GOVERNMENT (as on 31 March 1970)

	Investment Rs. crores	No. of Enterprises
At the commencement of the First Plan	29	5
At the commencement of the Second Plan	81	21
At the commencement of the Third Plan	953	48
As on 31-3-1966	2415	74
As on 31-3-1967	2841	77
As on 31-3-1968	3333	83
At the commencement of the Fourth Plan	3902	85
As on 31-3-1970	4301	91

Source : Nabagopal Das, *Indian Economy under Planning*, 47-50.

A brief description of some of the important public enterprises is as follows :

**SAIL.** To co-ordinate the development of the iron and steel industry both in public and private sectors, the Government of India set up the Steel Authority of India Ltd. (SAIL) in 1973. SAIL owns all the shares in the public sector corporations connected

with the steel and associated industries like coking coal, iron ore and manganese ore as well as all government shares in the private sector companies. It also acts as the nominee of public sector financial institutions, which hold shares in private sector companies for steel and associated input industries, refractory units and smaller steel producing organizations. The management of three public sector steel plants, namely Bhilai, Durgapur and Rourkela is vested in the State-owned Hindustan Steel Ltd., a subsidiary of SAIL. It also owns 5 coal washeries, one at Durgapur, two at Dugda, and one each at Potherdih and Bhojudih for the Supply of washed coal to the steel plants in the public sector. The Bokaro Steel Ltd., another subsidiary of SAIL, manages the fourth steel plant in the public sector which has been set up at Bokaro. It will have a capacity of 17 lakh ingot tonnes in the first stage and 40 lakh ingot tonnes in the second stage.

*Heavy Electrical Industries.* Apart from Bharat Heavy Electricals Ltd. (BHEL) and some other public sector undertakings under the State Governments, there are several large private sector units which are producing a large number of items for the heavy electricals industry. BHEL, which is a central public sector undertaking, was incorporated in 1964. It consists of four units, located at Bhopal, Tiruchinapalli, Hyderabad and Hardwar. Two more units, one at Jhansi and the other at Hardwar are under construction.

*The Hindustan Antibiotics Ltd., Pune.* It was incorporated in 1954. It undertakes basic manufacture of penicillin, streptomycin, hamycin and vitamin C. The production of penicillin and streptomycin was 63.02 mmu and 63,426 kg during 1974-75 as against 75.12 mmu and 64,027 kg in the preceding year.

*The National Mineral Development Corporation Ltd. (NMDC), Hyderabad.* It was set up in 1958 for the exploitation of minerals other than oil and natural gas and coal. The Corporation is a subsidiary of SAIL.

*The Bharat Aluminium Company Ltd., New Delhi.* It was set up in 1965 to implement two aluminium projects: (i) a 50,000 tonne per annum integrated aluminium project in the Ratnagiri area of Maharashtra, and (ii) a 1,00,000-tonne integrated aluminium project at Korba in Madhya Pradesh. The first stream of the Korba Alumina Plant was commissioned in April 1973. The first phase of the smelter was commissioned in May 1975. Some preliminary work has already been done on the Ratnagiri project.

*The National Small Industries Corporation.* Set up in 1955, it operates the scheme of procuring machinery for small-scale manufacturers on a hire-purchase basis on concessional terms. The value of machines delivered under this scheme during period April-October 1974 was Rs. 5.69 crores as against Rs. 3.25 crores during the corresponding period of the previous year. It also assists the

small-scale sector in processing orders from government departments and agencies. The value of stores purchased by the Directorate-General of Supply and Disposals from April to November 1974 was about Rs. 37 crores. The prototype development and training centres set up with American, West German and Japanese assistance at Rajkot, Okhla (Delhi) and Howrah impart training to persons engaged in small-scale industries.

*Cotton Corporation.* A public sector agency—known as the Cotton Corporation of India—has been created to take over the entire import trade in cotton. The practice of issuing import licences to user mills has been discontinued; instead, import licences are issued to the Cotton Corporation, with an endorsement in favour of the user mills for which the imported stock is intended. The Corporation consults the user mills in regard to their requirements and concludes contracts, the Corporation draws upon the experience of those who have been engaged in this trade in the past. In order to be able to provide such services, the Corporation controlled the private indenting houses as its Associates and has worked out with them the terms and conditions on which their services are utilised. The Corporation will gradually develop its technical competence so that its dependence on Associates is reduced over a period of time. The Corporation will be headed by a Chairman and managed by a Managing Director. The establishment of 'an agency in the public sector for the purchase, sale and equitable distribution of domestic cotton and also to serve as a vehicle for the canalisation of import of cotton', had been recommended by the Agricultural Prices Commission.

*Public Undertakings in U. P.* A number of big public sector undertakings have been set up in the State. These are: The Bharat Heavy Electricals at Hardwar, the Indian Drugs and Pharmaceuticals at Rishikesh, the Diesel Locomotive Factory at Varanasi, Fertilizer Factory at Gorakhpur, The Triveni Structural at Naini, U. P. State Roadways Corporation, the Hindustan Aeronautics at Lucknow and Cement Factory at Churk and Dalla. There are also the Bharat Electronics Ltd. Ghaziabad, Scooters India Ltd., Lucknow and Tannery and Footwear Corporation of India Ltd., Kanpur. The Artificial Limbs Manufacturing Corporation of India Ltd. Kanpur and Telephone Factory, Rai Bareilly are among the Central projects being set up in Uttar Pradesh. The State also has some of the oldest canal systems in the country among which are the eastern Yamuna Canal, the upper and lower Ganga canals, Agra Canal, Betwa Canal, Sarda Canal, Dhasan Canal and Ken Canal. Important irrigation projects implemented since 1947 are Matatilla Dam, Ramganga, Western Gandak Canal and Sarda Sagar.

#### IV. ORGANISATION OF GOVERNMENT (PUBLIC) CORPORATION

The proper organisation of government corporations raises many problems, relating to the composition of the board, directing chief or general manager, internal organisation, personnel, finance, labour, price policy, consumers' council and accountability. However, 'the kernel of the problem is provision for safeguarding the national interest without encroaching upon the administrative independence of the organisation and usurping their managerial responsibility.' We shall now discuss briefly the various problems of organisation as follows :

##### COMPOSITION OF THE BOARD

In the composition of the board two aims should be kept in view. *First*, it should have some public persons, without specialized knowledge of the business, who should act as overseers rather than managers and whose function should be to inspire confidence in the public. *Second*, there should be a body of qualified managers and experts to direct actively from their own competence the conduct of the service. Some measure of representativeness can be combined with the first, as with the Port authorities and the Governors of the B. B. C. in the UK.

The constitution of the Damodar Valley Corporation, under the Act of 1948 is: The Corporation consists of a Chairman and two other members appointed by the Central Government after consultation with the State Governments. A person is disqualified for being appointed, or for continuing as, a member of the Corporation (a) if he is a member of the Union or any State Legislature; or (b) if he has directly or indirectly, any interest in a subsisting contract made with or in any work being done for, the corporation. Every member is a whole-time servant of the corporation. The Secretary and the Financial Adviser of the Corporation are appointed by the Union Government. The Secretary is the chief executive officer of the Corporation. The Corporation may from time to time appoint one or more Advisory Committees for the purpose of securing the efficient discharge of the functions of the corporation, and in particular for the purpose of securing that those functions are exercised with due regard to the circumstances and requirements of particular local areas.

But Boards of direction can be of two kinds. The policy board should consist of men, whether full-time or part-time, none of whom are responsible for specialized functions as executive heads. The members of this board should lay down the policy or better called 'sub-policy' and take broad decisions. The functional board should consist of full-time members, who should also be the operating

heads of the various sections of the enterprise. Even if there is a single board both for making sub-policy and implementing the same, it is essential that as much power as possible be delegated to the Managing Director or there should a General Manager with the minimum of interference by the Board.

The composition of the board must be consistent with autonomy and efficiency. Negatively, the composition of the board should not be such as to obscure the essential condition of autonomy, that is, it should not give rise to over-lapping of responsibility. Positively, the composition of the board should be such as to subserve only one purpose, that of good and efficient direction in the public interest. From the first proposition it follows that the membership of the board of autonomous authorities must be closed to M. Ps. and ministers, in order to avoid overlapping of responsibility and from the point of view of maintaining the integrity of political life. Departmental representatives should also not be included in the board, because their inclusion means the destruction of autonomy. Further, there is no place on the board for the representatives of interests. Such a board is not a forum for the settling of points of difference among various interests each of which pulls its own way; its purpose being good management in the public interest; its responsibilities are not to any sectional groups but to public as a whole.<sup>1</sup>

Whether the chairman or all, or some of the members of the board should work whole-time or part-time would depend to a very large extent on the nature of work and the availability of suitable persons. Suitable businessmen may not be available except on part-time basis. Normally, government servants should sit on the board as whole-time members, so that they may remain free from the control of the department during the period of deputation. Size of the board must, of course, depend upon the work to be done; but ordinarily the number should not be variable. A four or five years' tenure seems reasonable for service on a board, although in some cases it would be desirable that members are appointed for overlapping terms, so that all the members do not go out at the same time.

The Indian Life Insurance Corporation Act, 1956, provides for (i) a corporate body of less than 15 members, to be appointed by the Central Government; (ii) a Chairman; (iii) an Executive Committee of not more than five members; and (iv) one or more Managing Directors. The Board of Directors of the Industrial Finance Corporation of India (established in 1948) consists of a wholetime chairman, appointed by the Central Government after consultation with the Industrial Development Bank of India (IDBI) and twelve directors. Six directors are elected by share

<sup>1</sup> A. D. Gorwala, *Report on Efficient Conduct of State Enterprises*, 19-20.

holders other than the IDBI, four directors are nominated by the IDBI and two by the Central Government.

The main function of the board should be to lay down the broad policies and the general objectives of the undertakings. Subject to the policies laid down, the Managing Director or the General Manager should have full authority and he should be held responsible for achieving the necessary results. The Board should have adequate powers to make appointments and to fix salaries. The powers of the board of sanctioning of capital works should be enhanced as the limits stipulated in the case of some of the big undertakings appear to be too low at present. The financial limits should be comparatively high in the case of big undertakings and could be more modest in the case of smaller undertakings.<sup>1</sup> Functions of the Damodar Valley Corporation, for instance, are : (i) the promotion and operation of schemes for irrigation, water supply and drainage; (ii) the promotion and operation of schemes for the generation, transmission and distribution of energy, both hydro-electric and thermal; (iii) the promotion and operation of schemes for flood control in the Damodar river and its tributaries; (iv) the promotion and control of navigation; (v) the promotion of afforestation and control of soil erosion; and (vi) the promotion of public health and the agricultural, industrial, economic and general well-being.<sup>2</sup>

#### THE ROLE OF CIVIL SERVANTS

It has been suggested that their role should be limited. As the Krishna Menon Committee observed, the civil servant has neither the skill nor the time to deal with details of such business concerns. They should neither be associated with the running of such projects nor be in a supervisory position. If at all they become members of the Board of Directors of some public undertakings, they should first sever their official connections. They should, besides, have the knowledge and experience in the line. The Menon Committee has also rightly recommended that even the members of Parliament should not be on the management of the undertakings.

The following demerits of the present system along with the suggestions need careful consideration. Taking advantage of a loophole in the existing rules, which permits Government officers to serve on deputation in the Public Sector Undertakings for three years before they are required to make up their minds whether they wish to stay on permanently or not, several Central Ministries are already pushing for the appointment of other officials, mainly from the IAS, to fill the posts vacated by the deputationists. There is a lot to be

<sup>1</sup> *Third Five Year Plan*, 268-69.

<sup>2</sup> *Damodar Valley Corporation Act*, 1948.

said for trying out junior IAS officers in subordinate posts in the public sector. But this is not what is being done. The new crop of deputationists, like the old, is being brought in at all levels. What is worse, in making these appointments the high level selection board is being by-passed altogether.

The ARC has recommended that Government servants sent to sector enterprises should opt out permanently for service in the public sector. Further, top management posts should be filled by Government officials on deputation only when there is not suitable alternative available. The Government have decided that Government officials sent to public enterprises should exercise an option cadre within a period of three years ; and in the case of top posts this option should be exercised within one year. This latitude in exercising the option appears like a special concession made to the general administrator.

The public enterprises have also taken their cue from the Ministries and are insisting in the name of 'autonomy' on their right to fill the top posts which fall vacant by promotion from within the enterprise. Hindustan Steel has already declared its intention to do this publicly. Once again, while no one will dispute the desirability of filling posts as far as possible through promotion, the snag is that the public enterprises are no more prepared to let their candidates be screened by the high-level selection board than the Ministries. If the Government is sincere in its desire to set up a separate cadre for the public sector, it must take immediate steps to ensure that no one is appointed to a senior post who has not been screened by the high-level selection board. This screening should be compulsory even for those whom the board of a public enterprise wishes to promote from within its own managerial cadre.

The Government will also do well to expose the hollowness of the plea by some public enterprises for autonomy in recruitment. But the argument cannot be stretched to cover autonomy in making managerial appointments. The freedom which the enterprises have enjoyed so far in recruiting their staff has actually exposed them to a host of pressures from powerful Central and State leaders and senior civil servants to find sinecures for friends and relatives. The creation of a unified managerial cadre, and in particular the requirement that all candidates for top posts in the public sector be first approved by the high-level selection board, will shield the enterprises from these pressures and actually increase their autonomy.

In any case, the idea that each enterprise or group of enterprises can set up its own cadre, with its own system of recruitment is absurd. Of the 93 public enterprises, 83 are too small to be able to set up viable cadres. Even a large multi-unit enterprise like the Fertilizer Corporation of India, does not employ more than 25 managers in all. After allowing for the retirement of senior officials

and the future growth of the enterprise, it is doubtful if the FCI can recruit more than one person a year for its managerial cadre.... The present system in which each enterprise maintains its own cadre of officers has another serious drawback ; there is very little scope under it for a manager to move from one enterprise to another.<sup>1</sup>

*Internal Organisation.* The TVA has a departmental organisation. Under the Chief Engineer, the three major engineering units are: water control planning department, design department, and construction department. Another major grouping of TVA activities is that of the three departments, whose common goal is water control on the land. These departments carry on the TVA fertilizer, agricultural and forestry programme, and were brought together under the supervision of a single official, with the title of Chief Conservation Engineer. Thus there are many other departments, the reservoir property management department, four regional survey and demonstration departments, six management service departments, etc. The Air Corporations Act, 1953, created 'The Indian Airlines Corporation (IAC)' which decided in April 1954 to set up a Headquarters organisation consisting of a number of Departmental heads such as Financial Comptroller, Chief Operations Manager, Engineering Manager, Chief Traffic Manager, Chief Controller of Stores, and Chief Personnel Officer.

*Personnel Management.* The first thing to be noted in this connection is that each corporation is independent of the Civil Service Regulations, so far as its own staff and employees are concerned. The Life Insurance Corporation Act provides : '23 (1). For the purpose of enabling it to discharge its functions under this Act, the Corporation may employ such number of persons as it thinks fit.' Each Corporation has to define and settle the various questions arising in connection with the personnel, e. g. recruitment, classification, compensation, training, staff side, right of public employees to strike and bargain collectively, etc.

'The Indian nation is committed to the socialist pattern of a welfare state and its planning and activities are directed towards such a goal. This goal has further been accepted voluntarily as the will of the nation and, therefore, there are certain features of it which will have an important bearing on all our attempts at personnel management. These factors are primarily four-fold, viz., working within the planned economy of the country, aim at a socialistic welfare state, application of no compulsion at any stage and applying to the maximum extent possible, the democratic principles in management of undertakings by encouraging participation of the employees in the managerial responsibilities of such undertakings. All management policies, therefore, must be directed towards these objectives and a pace must be set to achieve them in the shortest possible time. The

<sup>1</sup> P. S. Jha, 'Public Sector Management', *The Times of India*, 14 Nov. 1971.



responsibilities, therefore, on personnel management are today even much larger than on the overall management of undertaking itself.<sup>1</sup>

The Estimates Committee in its Report on Public Enterprises (II) all along opposed the practice of drawing heavily on the various administrative services to man the managerial positions in enterprises. The services did not possess the necessary experience in business, commerce, industry and trade. The Committee also noted that the Industrial Management Pool, as the new service was called, was neither conceived nor implemented properly. Besides the general management cadre, the committee suggested in March 1952, the formation of a Central Engineering Service consisting of Irrigation Engineers for the multi-purpose river-valley projects. Similarly, the Committee recently recommended the desirability of introducing a Financial and Accounts Service for the public undertakings (but not technical or specialized position) on a tenure basis for a period of four or five years, lest continuous stay in the posts should result in stagnation of outlook and loss of initiative and efficiency.<sup>2</sup>

*The Executives.* Even the question of their choice is a difficult one. The Managing Directors or the General Managers are normally appointed from outside the enterprise ; mostly they come from the Indian Administrative Service. The main problem here is that they are appointed in public enterprises only for a short period, as they are withdrawn at the sweet will of the appropriate Government. In majority of the cases, by the time they know the problems, get acquainted with modern management techniques and begin to implement the same, they are transferred to other jobs. In certain cases, the Chairman is a politician or social worker and is part-time. This leads to a very difficult situation especially when the chairman is aggressive in nature or politically powerful. The Chairman feels that he is the head of the organisation and, therefore, worries about details of the functioning of the enterprise, thereby rendering the Chief Executive Officer in-effective. The manager must have the authority as well as the responsibility of his position. He must be free to manage or he cannot be manager. Chosen for his competence as a business executive as well as a technician, he must make his own decisions within the general policy directives of his board.<sup>3</sup>

The Estimates Committee of the Lok Sabha has, in its fifty-second report on Personnel Policies of Public Undertakings severely criticised the tendency in public undertakings to employ in the initial stages the staff required for full production. This over-staffing

<sup>1</sup> G. S. Kambekar, 'Personnel Management in Public Enterprises', *Journal of the National Academy of Administration*, July 1964, 3.

<sup>2</sup> See J. P. Sharma's Research note in *I. J. P. A.*, Vol. XI, No. 2, 274-75.

<sup>3</sup> M. C. Shah, 'Management of Public Enterprises in India', *I. J. P. A.*, April-June 1968, 309-10.

has led to low productivity, higher cost of production, larger expenditure on residential colonies and difficult labour problems. The Committee has suggested a thorough study of the extent of over-staffing in public undertakings and to decide how the surplus staff could be used in the expansion projects of the undertakings in which they are already employed or to man new projects. As regards executive training, the Committee has urged the Government to take steps to organise a regular scheme of 'executive development'. It is undesirable to change a chairman or managing director of an undertaking very frequently. The Committee has urged that the Government should, however, have a free hand in removing unsuccessful and inefficient men before the expiry of their term. It has criticised the choice given to the undertakings to accept or reject officers offered from the Industrial Management Pool.

*Finance.* The fundamental idea of a public corporation is that it is self-supporting. Its object is to provide a service out of the revenues made available to it in exchange for that service. It aims at service, not profit. It also follows from the fact of the economic nature of a public utility undertaking that its finances have to be self-contained so that it may have the necessary flexibility and continuity in financial policy and operation. The traditional method of financing a public service through the medium of annual appropriations by the legislature from the revenues of the State is regarded as unsuitable by all students of public corporations. There are two methods of financing : (1) Capital financing by State direct or by a national investment board, which acts as an organ of the State. (2) Issue by the corporation itself, in the open market, of interest bearing fixed debentures with or without State guarantee.

Firstly, in some public corporations, the original capital has been provided out of parliamentary appropriations either as an out-right grant or as interest bearing capital. Thus initial finance was provided without an interest liability to the Faridabad Development Corporation, the Life Insurance Corporation, the Employees' State Insurance Corporation, etc. All these corporations, with the exception of the Life Insurance Corporation, are non-commercial organisations undertaking some developmental or social activities, and all get annual grants to meet their normal expenditures. The Life Insurance Corporation of India, which is a commercial corporation, had also been provided with an interest-free initial capital of Rs. 5 crores 'after due appropriations made by Parliament by law. But in this case the Government has the power to utilize 5 per cent of the Corporation's surplus for such purposes as the Central Government may decide.' So far, the whole of this surplus has been appropriated for the benefit of the general revenues.

The Damodar Valley Corporation had also obtained its original capital out of the legislative appropriations made by the three

participating governments. All current capital expenditure is also allocated to three governments. Public Corporations in India have mainly obtained their initial capital either as outright grants out of parliamentary appropriations or as loan and share capital from the Government. In some cases private equity participation has also been allowed and a minimum dividend guaranteed. Only the Air Corporations acquired their assets by the issue of their own guaranteed stock as compensation. But in 1958 the Government acquired shares in these corporations as well.

It has been suggested that public enterprises ought to be provided with a financial organisation which guarantees them adequate financial autonomy, consistent with the necessary degree of governmental influence. The latter is to relate mainly to capital budgets and major policies of pricing and profit making. The suggestion is commendable and, when implemented, it would relieve considerable frustration created by the existing procedures of individual sanctions of major items by Government which lead to abnormal delays. He has rightly pointed out that the control both on revenue and capital expenditure should be exercised by budgets and reviews, providing for adequate dispersal of financial decisions among the independently organised units of the public sector.<sup>1</sup>

The Government of India decided in 1957 that a post of Financial Adviser be created in every public enterprise. He is to send periodical reports to the Government on the financial working of the enterprise concerned. The financial adviser is intended to carry out two broad functions : to maximise the financial performance of the enterprise, and to constitute an important agency through which the Government may exercise control over the enterprise. Prof. Ramanadhan says that there is a suspicion that the financial adviser is an agency of Governmental control. It arises from the fact that (1) he is appointed by the Government; (2) he has to send to the Government quarterly reports on the enterprise; and (3) he has to report to the Board of Directors his differences with the Managing Director. He has a direct line of communication with the Government in the matter of financial policy (or even detail).

This arrangement would be embarrassing to the Managing Director, who is the Chief Executive responsible for the management and success of the enterprise. In this connection the Third Five-Year Plan opines : 'In case of difference of opinion, it should be quite open to the General Manager to over-rule the advice of the Financial Adviser, but there should be a convention that such cases should be brought to the notice of the Board by the Financial Adviser who should concern himself with problems of financial management rather than devote exclusive attention to those of control of expenditure. It has already been said in the first section that Government

<sup>1</sup> V. V. Ramanadhan, *The Finances of Public Enterprises*, 101.

Corporations should also enjoy financial autonomy. It is preferable that industrial undertakings prepare business-type budgets. The statutes creating them should provide for their proper audit and keeping of accounts, etc.

#### PRICE POLICY

One of the aims of the government undertakings should be public service, which should replace the motive of profit. In this respect, consultation is the first stage of community participation. For every nationalised industry, there should be set up a consultative or advisory board at the Centre representative of all its constituents, producers, consumers, management and workers. Thus it is necessary that in order to protect the interests of the consumers there should be Consumers' Councils, which are all the more necessary, because most of these undertakings are monopolistic in their nature. The question of price policy is of particular interest to the consumers. Therefore the general pricing policy should be to fix such a price for the product that taking several years together the enterprise should make neither loss nor profit. 'Public enterprises should not, as a rule, be expected to assist government finances. Such action may, however, be permissible under sufficient safeguards where the surplus so obtained is to be used for some special purpose likely to increase the efficiency of the concern itself. It may be laid down : (i) public corporation may make a profit or a loss only when specifically authorised by the Minister for specific purposes; and (ii) public corporation should show fullest information about every part of the service separately in its accounts.'<sup>1</sup>

The plea of 'social returns' which cannot be measured in monetary terms is occasionally put forward. It has been pointed out in recent studies conducted by the UN and ECAFE that private enterprises also produce social results. But some of the Government companies do not yield social returns except in a very far-fetched sense. It is, therefore, neither fair nor proper to balance so-called social returns against losses or inadequate profits. At one time Government refused to apply the concept of profits to public enterprises. The interests of Government are broader than those of private enterprise. In India many of the enterprises produce type of goods and services as private undertakings. There is, therefore, no reason why a different yardstick should be used to measure their efficiency. In any case, it does not follow that inefficiency should be tolerated in a public undertaking simply because it is a 'Government' enterprise and is supposed to provide a special good or service.

The arguments put forward on behalf of Government enterprises are based on the ground that public sector units are high cost units because (a) they have been recently established, (b) they have

<sup>1</sup> A. K. Murdeshwar, *op. cit.*, 128.

obtained imported equipment and supplies at a higher price under project aid, (c) they have to pay large amounts as interest charges on borrowings, and (d) they provide better social amenities to labour. But 'of late, Government has veered round to the view that the profitability rate is an important criterion for assessing the performance of a public sector enterprise.' It is a good indicator of the efficiency with which an enterprise is being run. It also measures the return which the country gets on the capital resources it has entrusted to the management of the enterprise. Furthermore, profits provide a valuable and expanding source of funds for further investment in the public sector. Government also agrees that public enterprises should have the maximum possible autonomy to function on sound business and commercial lines and should be responsive to the needs and interests of the community. These are encouraging signs; let us hope that this awareness would impart new vigour to the actual management of our public undertakings.<sup>1</sup>

Sufficient information is not available regarding the influence exercised by the Minister in the price policy of public enterprises in India. In the departmental type of enterprise the Ministry is directly responsible for the operation of the enterprise; but in the case of government corporations the Minister has been given no statutory authority to interfere in price policy. The only exception is the Damodar Valley Corporation which, though free to fix rates for electricity and for water for industrial and domestic use, is required to consult the State Government concerned for the fixation of water rates for bulk water supply to a Government for irrigation. But in all cases the Central Government has power to give such general or specific directions to the corporations as it thinks fit. The case of government companies is exactly similar to that of the corporations. The Minister is not statutorily empowered to interfere in price policy, but he is authorised in such cases to give a general or specific direction or instruction, which the Boards are required to follow.

An expert advisory body called the 'Public Enterprise Commission' to oversee public enterprise prices, profits, capital allocations, expansion, contraction and consumers' interest should be created. Price policy in public enterprise can be divided into three distinct tiers—the formulation of an optimum price policy, the fixation of optimum price policy, the fixation of optimum price structure and price regulation. Although the formulation of an optimum price is a function of public policy, neither Government nor Parliament possesses sufficient expert knowledge for the job. So the optimum price structure should normally be determined by the enterprise concerned, but the Commission can give expert guidance in its formulation. The Commission should also act as a federal apex for all individual price tribunals in the public sector. But this suggestion

<sup>1</sup> Nabagopal Das, *op. cit.*, 59-60.

seems misconceived, because most of the functions suggested for it fall within the proper purview of either the management or the department or the Planning Commission.

Sometimes it is argued that public enterprises should operate on a purely commercial basis. It is said that normally the managers should confine themselves to economic decisions ; if some political decisions are to be taken and the national interest has to be defined, this should be done by the Minister. Losses incurred in pursuing these social objectives should be met through a direct subsidy from the Exchequer and not from the remunerative services of the enterprise. Their profits should be used only for the purpose of economic growth. There is no case for using public enterprises as milch cows for the national revenues or for using their surpluses for the maintenance expenditure of the State.

But the present financial arrangements in India are such that these profits are being merged with the national revenues. In those cases where private persons also hold shares in the equity capital of enterprises, they also get a share of these surpluses. This is very objectionable, as it is unfair to ask the consumers to make sacrifices for the 'national interest' and then distribute the profits to private shareholders. To meet this objection, all public enterprises should be set up in such a way that they have their own self-contained finance, without any equity shares. All surpluses should be retained by these enterprises and used for the self-financing of their own expansion schemes or for expansion in allied fields in conformity with the priorities laid down in the plan. Finally, there is the question of control over the price policy of public enterprises. The prices of these enterprises must have a correct relationship with the over-all price structure in the economy. And the Minister must have both over-all control over prices and the ultimate authority to intervene in the national interest. Aside from these exceptions, the Boards should be left free to determine their price policy.<sup>1</sup>

## V. ASPECTS OF GOVERNMENT CONTROL

The measure of control which Parliament exercises over public undertakings is normally regulated by the form of management adopted. In the case of departmental units the control of Parliament is absolute, since their annual requirements of finance are presented to the House in the form of demands for grants. Similar control also exists over the commodity boards, since Parliament has to approve their annual budgets as well as the appropriations of the cess collected. In the case of statutory corporations the control of Parliament is defined in their statutes, although certain matters are specifically reserved for its consideration. In the case of state

<sup>1</sup> G. S. Bhalla, *op. cit.*, 231-34.

enterprises incorporated as companies, control is necessarily more indirect.

A public limited company and its board of directors are accountable to its shareholders. A state enterprise, in which the nation is symbolically the shareholder or the state itself is the sole or major shareholder, by reason of direct investment must necessarily be accountable to Parliament representing the shareholders. But the question arises whether this accountability should be detailed and continuous or should be general and annual as in the case of public limited companies. It is on this issue that opinion is divided though it is generally accepted that control or interference in matters of day-to-day working would take away managements' initiative and react on the efficiency of the enterprise.

When a new company is to be formed, a demand for grant for its financial requirements is placed before the House, thus affording it an opportunity of discussing the investment and the form in which it is proposed to be made. Subsequently the annual reports of the companies, together with their balance-sheets and profit and loss accounts and a review by the Comptroller and Auditor-General, are also placed on the table of the House, thus giving members the opportunity of studying these documents and raising a debate should they so desire. The audit reports and reviews also come under the scrutiny of the Public Accounts Committee, in the same manner as the Comptroller and Auditor-General's observations on departmental expenditure. In addition, interpellations provide yet another medium of accountability. Parliamentary control over the field of state commercial and industrial activities is thus as extensive and detailed as over normal departmental expenditure. By providing for the overriding audit control of the Comptroller and Auditor-General, the Companies Act, on the one hand, met the requirements of public accountability of the state enterprises and on the other, retained for them the necessary degree of flexibility in operation and management.<sup>1</sup>

The various methods through which the Government exercises control over public undertakings may be mentioned as : (1) Power to dictate the policy of the enterprise ; (2) Power of prescriptive veto or to issue a directive in public interest ; (3) Power of appointment and removal of top officials and members of board ; (4) Power to call for information, reports and returns ; (5) Power to require the corporation to submit a budget for approval of the Government when so provided in statute ; (6) Power to carry out a supplementary or test audit or in the case of some of the statutory corporations to vest audit in the Comptroller and Auditor-General of India ; (7) Prior approval or sanction of expenditure in excess of 10% in cases where the Government had approved the detailed

<sup>1</sup> Asok Chanda, *op. cit.*, 192-97.

project report ; (8) Prior approval of capital expenditure in other cases where it exceeds a ceiling fixed depending on the size, complexity and type of management ; (9) Prior approval in all matters of borrowings, investment and distribution of profits ; and (10) Prior approval of rules and regulation of corporations established by statute. Some of the important aspects of the central control have been discussed under the following heads :

#### THE QUESTION OF AUTONOMY

It is a very important question regarding the working of the public undertakings. Looked at from another point of view, it is an aspect of the much more important question of governmental control over public enterprises. In the case of the Damodar Valley Corporation the question became especially controversial because the Corporation's first board insisted on carrying on its work in an autonomous way as provided for in the Act, while the controlling Ministry and the Ministry of Finance seemed to hold a different view in the matter. In India we are attempting to build up a planned economy, so even private sector undertakings are subject to considerable controls by the Government. 'Public undertakings moreover are set up principally in fields that are vital to economic growth and the proper functioning of the economic system and they are therefore bound to be subject to greater regulation and control than private undertakings. As a matter of fact, one of the reasons why certain undertakings are nationalised or a decision is taken to reserve the development of certain industries for the public sector is that close control and regulation is considered necessary in their cases so that their development may take place in accordance with the requirements of the public interest. Therefore, there can be no question of public undertakings in India enjoying 'full' autonomy, whatever that may be. Decisions on matters like location of new projects, investments, foreign collaboration, overall policy regarding salaries and wages, the composition of output, the use of surpluses, price policy and labour policy are bound to be reserved for the consideration of Government.'<sup>1</sup>

The relevant question is, therefore, once these broad policy matters are decided by Government, should the actual management of the enterprise be left entirely to the top management or should the Government in one way or another also participate in this task. The Government of India's approach seems to be that it is necessary for the Government to be associated even in the process of decision-making in the enterprise. Paranjape rightly holds that it is not possible to distinguish clearly between broad policy-decisions and management decisions ; there is bound to be much overlapping

<sup>1</sup> See H. K. Pranjape, 'Evolving Pattern in the Public Enterprises', *I. J. P. A.*, Vol. IX, No. 3, 406.



between these, and therefore in order to ensure proper and smooth functioning it is much better to have a flexible approach in the matter. In pursuit of this policy the Government has developed a system of indirect control in addition to the formal controls and powers that the Government has. The most important instrument was that in the board of directors, a number of Government officials were included. Till recently in a majority of boards, the Secretary of the controlling Ministry or another senior officer was appointed as Chairman of the board ; an officer of the Ministry of Finance was also included in the board. Moreover, the Chairman as well as other directors had the right to suggest that a matter that was being decided by the board should be reserved for obtaining the advice of Government.<sup>1</sup>

#### NEED AND NATURE OF CONTROL

What is to be sought in a government corporation is 'a combination of public ownership, public accountability and business management for public ends.' As has already been said, the problem is that of securing a balance between parliamentary control and operational freedom. It should be appreciated that public enterprises, even though autonomous for day-to-day administration and functioning, form an integral part of the governmental activities. Having initially provided funds required to set up the undertakings and having granted them operational autonomy, Parliament has a responsibility to see that the funds are utilised properly and efficiently. In our country during the second plan period about Rs. 500 crores were invested in these undertakings, and a much larger investment was made during the following plan periods. It is, therefore, very essential that these enterprises should be accountable to Parliament, if they are to be public in the true sense of the word. For all practical purposes, governmental control in respect of autonomous enterprises falls into three broad spheres : (a) parliamentary control, (b) ministerial control, and (c) financial control.

#### PARLIAMENTARY CONTROL

The various means through which parliamentary control can be exercised are : (i) passing of the statute which sets up an enterprise ; (ii) power of amending the statute ; (iii) special safeguards provided in the statute, such as the creation of consultative, advisory or co-ordinating committees ; (iv) appropriations—the original or supplementary grants for capital or revenue purpose ; (v) the yearly reports of the working of the authority ; (vi) annual statement of accounts and its reports, reports of the Estimates Committee and the Public Accounts Committee ; (vii) reports of any special or select committee appointed for any specific purpose ; and (viii) questions.

<sup>1</sup> *Ibid.*, 406-07.

All these means provide opportunities to the legislature to debate and discuss questions and other matters relating to the working of the public enterprises. The various statutes enacted by the Parliament for the purpose of setting up public corporations include clauses, which authorise the Government to issue directions to their management boards in respect of different aspects of their management. Some of the other important devices through which Parliament exercises control over public enterprises may briefly be discussed as follows :

*Questions.* Broadly speaking, admissibility of questions relating to Statutory Corporations and Limited Companies in which Government have financial or controlling interest is regulated generally in the following manner on the merits of each case : (1) Where a question (a) relates to a matter of policy, or (b) refers to an act or omission of an act on the part of a Minister, or (c) raises a matter of public interest although seemingly it may pertain to a matter of day-to-day administration or an individual case, it is ordinarily admitted for oral answer ; (2) A question which calls for information of statistical or descriptive nature is generally admitted as unstarred ; and (3) Questions which clearly relate to day-to-day administration and tend to throw work on the Ministries and the corporations incommensurate with the results to be obtained therefrom are normally disallowed.

*Half-an Hour Discussion.* It is in the nature of an extended version of the question device, as it arises out of a prior question whether starred or unstarred. The notice seeking to raise this discussion, which must pertain to a matter of sufficient public importance, must be given not later than three days of the answering of the question out of which it has arisen. The procedure is that the member or members giving notice make their points and, on the Speaker permitting them to do so, ask a question each seeking elucidation of any fact or facts arising out of the question. The Minister at the appointed time replies briefly and the matter ends with his statement. As there is no formal motion before the House there is no voting either. As the notice has to be supported by two other members, there must at least be three members who want to seek some elucidation.

*Discussion under Rule 193.* Members of Parliament can raise discussion under this rule without a formal motion or vote thereon regarding any matter. The discussion can last for more than two hours with the consent of the House. The notice which has to be supported by two other members, should be accompanied by an explanatory note about the matter to be discussed giving reasons. It is not the normal practice to allow such discussion during the Budget Session as there are ample opportunities to raise such issues during the debate on the Presidential address, the Demands for

Grants and the finance bill. The intention is that members who are in possession of some knowledge about any matter should apprise the House of it and others who might like to participate in the discussion after prior notice might do so. Unlike the half-an-hour discussion on a prior question where no discussion or deviation apart from any issue raised by the question is permitted, this device is certainly more satisfactory.

*Discussion during a Motion of Thanks for President's Address.* The address is followed by a general discussion on a motion of thanks proposed and seconded by members. On a motion of thanks there was a discussion for three days in which seventeen members participated. On the first day when seven members spoke on the address, none of them referred to the public enterprises. On the second day, of the four who spoke, a member from Assam, referred to the proposal to increase the capacity of the Oil Refinery at Noonmati from 0·75 million tonnes to 1·25 million tonnes. On the last day five of the six speakers referred to public enterprises. One referring to the Minerals and Metal Trading Corporation, stated that iron ore had been exported at a loss of Rs. 2·95 crores to the corporation.

*Discussion on the Annual Financial Statement (Budget).* The annual financial statement is presented every year on the last day of February. From the time it is presented to the House till the time the Appropriation and Finance Bills are passed, members get opportunities to discuss the financial policies pursued by the Government during a general discussion on each demand for grant of the Ministries that follows it. The speaker, in consultation with the leader of the House and the Business Advisory Committee, allots a certain number of days for the discussion on the Budget.

But the curious fact is that, despite all questions and debates which take place on various occasions, the legislature does not exercise much real control. This is because : (a) parliamentary time available for debate is often too limited for each public undertaking to be fully debated; and (b) very few members take an intelligent interest in the undertaking. To meet this situation, a standing Parliamentary Committee on Public Undertakings was set up in 1966 with elaborate rules as to what it should or should not do. This committee has been discharging its obligations fairly efficiently, but members of Parliament still continue to ask questions, often with a view to embarrassing the chief executive of an undertaking or the Minister-in-charge.

#### MINISTERIAL CONTROL

In a public enterprise it is the responsibility of the Minister to lay down the policy as well as to appoint the top officials and nominate the members of the board of directors. As far as the

officials are concerned he can remove or dismiss them for neglect, incapacity and inefficiency. In the case of the members of the board he can refuse to renew their term at the end of the year as under the Company law they have to be re-elected, but in this case renominated. These prerogatives of appointment make the Minister all the more powerful. The board not being exactly a policy-making board, occupies a position somewhat anomalous and somewhere between the chief executive and the Minister. Reports, returns, inspections, specifications, manuals, standards, graphs, charts and even the very budget are all organisational devices for control. It is but proper that the Government which is responsible to Parliament and the nation should have the power to call for such reports and returns as it deems necessary. These reports are supposed to convey useful information regarding management, finance, personnel and production—information which is useful to the administrative Ministry for getting a picture of the performance and health of the undertaking.

The purpose in vesting the above powers in the Minister is obviously to ensure : (i) that expenditure is not incurred in investments that will yield no return, (ii) that financial resources are not frittered away in capital expenditure, and (iii) that borrowings, investment, and distribution of profits receive full Government scrutiny and control. The powers to incur capital expenditure vary from enterprise to enterprise and bear no relation to their operations. Every year the Government expends vast sums of money on its activities and programmes after Parliament has voted such expenditure placed before them in the form of estimates. One of the constitutional devices by which Parliament has secured the accountability of the Government for this expenditure has been through the agency of the Comptroller and Auditor-General.<sup>1</sup>

It is desirable and necessary that concerned Minister should accept responsibility for the general success or failure of the enterprise. Thus, the accountability of the Minister in regard to the affairs of these bodies could be quite extensive; but in view of the autonomy allowed to these enterprises, it would not be in order to hold the Minister responsible in regard to matters of detail or day-to-day administration. The powers of the Minister include: (i) issue of general and specific directions; (ii) appointment and removal of chairman and members of the board of directors; and (iii) indirect influence through the official members. In India there are complaints that the control exercised by the Ministers is excessive; for autonomy to be properly preserved the Minister's powers, too, must be strictly limited.

In this connection the following critical observations of the Estimates Committee deserve mention : 'Looking at the organisational set-up of the various undertakings that have so far been

<sup>1</sup> N. N. Mallya, *op. cit.*, 110-12.

established, the Committee feel that they are more or less extensions of Departments with very little of business experience of procedure and are run almost on the same pattern with minor changes here and there, as any Department of the Government.... At present, as soon as a national undertaking is started a Board of Directors which consists wholly or largely of the officers of Government is constituted.<sup>1</sup> The meetings of the Board are held at various places where the undertakings are located and these meetings take place after long intervals. The agenda is run through, as it were. Decisions are delayed and are not arrived at after due and mature consideration by the persons who have intimate knowledge of the working of the undertaking. The climax is reached when Officer on the Board, who is generally the Secretary or the Joint Secretary of the Ministry concerned, does not agree with a proposal or a scheme and has the final right to get the whole thing shelved or vetoed when it comes to the Ministry for a decision.

The one-man Chagla Commission, which investigated Life Insurance Corporation's large-scale purchase of shares in concerns controlled by a single individual, recommended these principles for the administration of autonomous state enterprises : (i) The Government should not interfere with the working of autonomous statutory corporations; (ii) that chairmen of corporations like the LIC should be appointed from persons who have business and financial experience; and (iii) that if the executive officers of the Corporation are to be appointed from the civil service, it should be impressed upon them that they should not permit themselves to be influenced by senior officials of Government. It is a sound principle that politicians should not interfere with the day-to-day management of public corporations.

Financial control is essential to securing honesty in public affairs to check waste and inefficiency. What Appleby observed in 1956, that the chief concern of control system should be 'to develop inter-ministerial financial competence in the programme agencies, to transfer the accounting function to the ministries under the general direction of Finance, to limit the role of the Comptroller and Auditor General, and to elevate the approach of Parliamentarians to a more general and positive appraisal of administration' is still true to-day. In so far as the control mechanism deals with accounts, it is easy to organize it in a rational manner. Conscientious checks and counter-checks are necessary along with clear financial regulations. The Parliament and its committees, the Finance and other administrative Ministries, Department officers and the Auditors, all play a significant role in financial accountability.<sup>2</sup>

Annual statements of accounts and audit report are the raw

<sup>1</sup> E. C. 9th Report, 1953-54, 16-17.

<sup>2</sup> R. B. Jain, *op. cit.*, 313.

materials of accountability of the public enterprises to Parliament. In this connection the following recommendations of the Estimates Committee made in its 73rd Report should be noted : 22. The Committee recommend that the Accounts and Reports for the previous year of all the Public Undertakings... be laid before Parliament before the general budget for the following year is presented. 24. The Committee recommend that when there is a statutory provision for presentation of accounts (as in the case of Indian Airlines Corporation, Air India International and the Rehabilitation Finance Administration) to Parliament with the certificate of the Comptroller and Auditor-General only the accounts as certified should be presented. 25. The Committee recommended in their 20th report (second Loksabha) on Budgetary Reforms that it would be desirable to bring out a consolidated volume containing the performance and programme statements, business type budgets and annual reports of the Public Undertakings with an appreciation of their working. In their 60th Report the Committee reiterated their recommendation and the Committee again reiterate that recommendation.<sup>1</sup>

The Estimates Committee in its 9th Report pointed out two defects : *First*, regarding the provision of funds it says : 'One of the defects in the present system of financing the national undertakings is that the moneys do not in all cases pass through the Consolidated Fund of India' as laid down in the Constitution. *Second*, the committee have noticed that accounts are not in all cases kept on commercial basis. It must be a uniform practice that every undertaking prepares Profit and Loss Accounts, Balance-Sheet, Depreciation and Reserve Fund and Amortisation Funds Accounts, etc., according to the well-settled commercial practices.<sup>2</sup>

#### QUESTION OF AUDIT

When the State Companies were first formed, the audit functions were entrusted to the Comptroller and Auditor General. Later, a directive was issued to the effect that the audit of these companies should be conducted on commercial lines. But the Companies Act of 1956 provided that audit of state companies would be entrusted to professional auditors, to be appointed by the Government on the advice of the Comptroller and Auditor-General, who was also authorised to conduct a supplementary test audit at his discretion. The new arrangements are not quite satisfactory ; although 'by providing for the over-riding audit-control of the Comptroller and Auditor-General, the Companies Act, on the one hand, met the requirements of public accountability of the state enterprises and

<sup>1</sup> E. C. 73rd Report (Second Loksabha), 1959-60, 10-11.

<sup>2</sup> E. C. 9th Report, 1953-54, 19.

on the other hand, retained for them the necessary degree of flexibility in operation and management.<sup>1</sup>

The Comptroller and Auditor-General has the power to direct the manner in which the companies' accounts shall be audited by them and he has also the power to have a supplementary or test audit of the companies' accounts carried out by such person or persons as he may authorise in this behalf. He has also the right to comment upon or supplement the Audit Reports of the professional auditors. The audited accounts are placed before Parliament or the State legislature as the case may be. In 1962 the Comptroller and Auditor-General asked the professional auditors to prepare supplementary reports containing basic information relating to the standards of accounting and of financial control attained by Government companies under their audit. These supplementary reports are expected to provide Parliament with authentic information regarding the state of accounts of public sector undertakings.<sup>2</sup>

The question of audit was examined by the Administrative Reforms Commission. It considered all the criticism levelled against the existing system including its multiplicity. The Commission stated that the managements felt that detailed and continuous audit wasted time and effort and dampened initiative, forcing everyone to caution and leading to centralisation of powers. Efficiency, they said, was a concern of the management and audit was hardly equipped to judge it. In commercial undertakings not all decisions or judgments can be correct and unless serious loss was caused managements should not be held up as negligent or inefficient. As a solution of the problem, the Administrative Reforms Commission suggested four or five Audit Boards, each dealing with sector corporations recommended by them. These boards were to be under the control of the C & AG. The staff were to be recruited by the UPSC. The boards were to be composed of five members, three to be permanent and common to all the boards and drawn from senior officers belonging to the IA & AS. The other two were to be part-time members appointed by the Government in consultation with the C & AG, the members being drawn from non-officials or officials with special knowledge of the area of enterprise the board is required to deal with. These boards should attempt to cover all undertakings once in five years. The annual regularity audit by professional auditors would however be continued.

#### THE QUESTION OF A PARLIAMENTARY COMMITTEE FOR PUBLIC ENTERPRISES

In the UK the first Select Committee on Nationalised Industries was set up in 1955. In Canada, while no special committee

<sup>1</sup> Asok Chanda, *op. cit.*, 201-02.

<sup>2</sup> I. I. P. A., *Public Administration Abstracts*, October 1963.

to examine their working has been set up, there are already in existence a number of Standing Committees of Parliament. One serious objection against the setting up of such a Committee is that it would impede the working of the enterprises and destroy initiative in them. But the weightiest argument in its favour is that such a Committee would enable the enterprises directly to speak to a responsible group in Parliament and explain their policies and problems. Winding up the discussion of a seminar on State Undertakings organised by the I. I. P. A. in 1960, the Director summed up these points, which emerged from the discussion : (i) it is desirable to have a special committee on the lines of Committee in the UK but with the setting up of this Committee, public enterprises should be excluded from the purview of other Parliamentary Committee ; (ii) the Committee must earn the confidence of the management and vice versa ; (iii) it should publish its proceedings ; and (iv) a greater degree of knowledge would help to create a feeling of confidence and better understanding between management and Parliament.<sup>1</sup> The Union Cabinet decided, on the basis of a recommendation made by the Krishna Menon Committee's report (submitted in 1959 to the Congress Parliamentary Party which had set up the sub-committee of Parliament to exercise effective control over the public undertakings of the Government of India).

The Committee on Public Undertakings consists of ten Lok Sabha members and five Rajya Sabha members. It examines : (i) the reports and accounts of the public undertakings ; (ii) the reports, if any, of the C & AG on the public undertakings ; and (iii) in the context of the autonomy and efficiency of the public undertakings whether their affairs are being managed in accordance with sound business principles and prudent commercial practices. The Committee in its 13th report on Management and Administration of public undertakings said that it should be informed periodically of the progress on the execution of various public sector projects. It has also recommended as follows : (1) At the time of setting up of a public undertaking, the Government should indicate the specific objectives for which it is being set up, the precise targets it has to achieve, the time schedule for completion, and the estimated cost. (2) The estimates of foreign exchange expenditure should be prepared more realistically. (3) In public undertakings where production and expansion take place simultaneously, profitability and economy of working should be tested from time to time. (4) An agency with a continuous programme for conducting techno-economic feasibility studies in various spheres should be set up. (5) A team should be appointed to assess the requirements of ancillary and auxiliary, industries in public sector projects and suggest measures to set up

<sup>1</sup> I. I. P. A., *State Undertakings : Report of a Conference*, Dec. 1959, 14.



such industries expeditiously.<sup>1</sup>

The Committee on Public Undertakings suggested that an enquiry should be made to ascertain the reasons for entering into defective agreements by the Trombay Unit of Fertilizer Corporation of India which had resulted in huge financial losses and continuous low production. Awarding of contracts to the firms which did not have the capacity to undertake them was a sad affair. The Committee desired to be informed of the findings of the enquiry, the names of the officials found responsible for these lapses and the action taken against them. The Committee felt that the autonomy enjoyed by an undertaking should not be taken to mean that its Management is free to make commitments without regard to financial propriety and procedural requirements. The Committee also took a serious view of retired senior officials of public undertakings taking up appointments or serving in some capacity in private firms with which they had large financial dealings, while in service.<sup>2</sup> The Committee on Public Undertakings in its report on Hindustan Steel Ltd. (HSL) advised against any frequent changes either in the character of the Board of Directors or its personnel, as had happened in the past. Rejecting the findings of the Industrial Engineering Department (IED) of HSL in 1963-64 that there was no surplus staff in HSL, the Committee commented that it would not be safe to rely on the IED report in the face of the more scientific estimates made by the Bureau of Public Enterprises and the Administrative Staff College, Hyderabad, which had revealed surplus staff in HSL. The Committee expressed the hope that following the proposed studies to be undertaken by the O & M Sections in the plants, the services of surplus staff could be made available to other steel plants expected to be set up in the country with a view to give them experienced staff from the inception.<sup>3</sup>

Since public sector undertakings belong to the people of India, the people must, therefore, know what these enterprises are doing, how they function and who is being benefitted. At least in the case of the Public Sector the general ignorance of the real owners of these enterprises has been patently pathetic, resulting in indifferent and often hostile notions. The Public Enterprises have been painfully aware of this and have long felt the need for a central agency to disseminate information. The Bureau of Public Enterprises with the cooperation of many Chief Executives of Central Government enterprises successfully launched New Horizon on 29 September 1970 to make the role of the Public Sector in the national economy better appreciated. The membership of New Horizon is open to all public enterprises

<sup>1</sup> I. I. P. A., *Newsletter*, February 1966.

<sup>2</sup> I. I. P. A., *Newsletter*, March 1969.

<sup>3</sup> I. I. P. A., *Newsletter*, December 1971.

of the Central Government. Most of them have already become members and others are expected to join. The State Government undertakings and other corporate bodies in the Public Sector may also be admitted to the membership by the Governing Council. New Horizon is financed by the annual membership subscription of the member companies.

## VI. A CRITICAL ASSESSMENT

Paul H. Appleby in his first Report issued in 1953 said : 'The Government here has not often as elsewhere lost sight of the distinctly governmental character of these enterprises, and has not been led so far astray by intoxication with the word 'corporation'. These enterprises are subject to public controls in a rather satisfactory way.'<sup>1</sup> Since then the Government has increasingly relied on the corporate pattern for the organisation of the growing number of public enterprises. In his 'Re-examination of India's Administration System', Appleby particularly criticised the constitution and functioning of boards of such enterprises. His observations in this regard may be summarised here : (i) In many instances single officials, already burdened with many other duties, serve on so many boards of directors that they cannot possibly attend to those duties in addition. In some cases membership even on one board is undesirable because of too heavy burdens of other kinds. (ii) Some boards require too many matters to come before them ; others delegate better and reserve their functions for more general decisions. In considerable part because of the way their boards and ministries show reluctance to delegate, but in part because of personal lack of willingness to delegate, skill in delegating and lack of proper structures under the managing directors facilitating subordinate responsibility, the extent to which managing directors delegate varies. Action is slower wherever delegation is not far advanced. Suggestions for reforms are clearly indicated and therefore no comments are needed.<sup>2</sup>

Prof. J. K. Galbraith, the author of the 'Socialist Theory of Capitalism' and formerly Ambassador of USA in India, said : 'I venture the view that the public sector has reached the point when its organisation requires a great deal of attention. India has a kind of post-office socialism which is out-of-date and which is working far less well than it should and must.' Among the various criticisms offered by Prof. Galbraith we would like to focus attention on two of them. He was disturbed to discover that competent executives were frustrated and angry over the centralization of purchasing, personnel and financial decisions in New Delhi. These delays were a source of discouragement to the younger engineering and technical

<sup>1</sup> Paul H. Appleby, *Public Administration in India, Report of a Survey*, 60.

<sup>2</sup> Paul H. Appleby, *Re-Examination of India's Administrative System*, 36.

personnel who should be showing great enthusiasm. The result was poor morale where it should be high. The Second criticism was even more disturbing. Prof. Galbraith said : 'What I have called post-office socialism—public ownership that contents itself with avoidance of loss or of modest profit which it returns to the treasury will inevitably prove a stagnant form for economic organisation. Our modern, expanding public sector, which is our chosen tool of dynamic development, is already in the danger of becoming stagnant.' Prof. Galbraith's idea was that profit should finance further development. Factors of production should aim at a comparatively low cost. They should be so commissioned as to yield the highest return under conditions of maximum productivity. The projects while adopting such goals, should not hesitate to become capital-intensive. It may be hoped that our Government will give its earnest thought to these points and take appropriate steps to remedy the defects.

Later in 1961, in an address to the Indian Institute of Public Administration, Prof. Galbraith said that India had extended more than any other country, the scope of public administration to embrace the production and distribution of goods while retaining at the same time the full substance of parliamentary democracy. The Indian problem of public management, he said, was the most interesting in the world. India, alone, he added, was vesting the resources of the public administrator as a producer of goods under parliamentary scrutiny, supervision and guidance, while there had been a large measure of accommodation to the requirements of the corporate personality for autonomy in both modern American and modern Soviet organisation. Galbraith felt that the accommodation was most difficult in the case of the public firm in a parliamentary democracy.

He said that another handicap with which the public in parliamentary democracy suffered was that goals which were essential for the full achievement of the firm were not always clearly defined. He added that the intrusion of politics and patronage into the public corporation was deeply subversive of the subtle relationships on which an effective development of this synthetic personality depended. But so also could be the intrusion of civil service procedures and routines. He further said that the success of a public corporation in the parliamentary democracy could be judged from the earnings that it was able to put into its own expansion. 'Though the society should be wholly tolerant of errors that are within the framework of success it should be wholly intolerant of failure to achieve the specific goals. Indeed, the non-achievement of goals, not the individual mistakes, is the meaning of failure. Autonomy does not mean less public accountability. If anything, it means more—but it is accountability not for method, procedure or individual action but

for result', he concluded.<sup>1</sup>

The solid proof of the not-so-efficient conducting of public enterprises is the fact that, despite the prevalence of insulated monopoly conditions, so few of them have been able to make profits. Even where a beginning has been made in this direction, it is debatable to what extent such profits are profits in the commercial sense : Why is it that public enterprises are not functioning better ? 'The reasons are two-fold : *First*, there is acute shortage of managerial skill. The importance of building up a proper managerial class has not been fully appreciated, with the result that most projects depend today on civil servants and retired government officials. By temperament and training, they are not suited for such tasks. *Second*, there is too much of centralisation and red-tape and too little of co-ordination between these units and the different organs/departments of Government. The present inadequacies in the matter of providing transport and electric power are two typical instances of the inability of the public sector to rise upto the requirements of the Government's own plans.'<sup>2</sup>

No doubt, the most important yardstick of the efficiency of a business enterprise in a competitive economy is its profitability. It should be more so in those public undertakings which partake of the character of 'insulated' monopolies. Unfortunately, the record of many public enterprises functioning in India today is rather poor. Between 1962-63 and 1970-71, the total investment doubled, but the 'return' continued to be low. The annual report on the working of industrial and commercial undertakings of the Central Government for the year 1970-71 showed that 37 out of 87 industrial and manufacturing undertakings incurred an over-all net loss of Rs. 78 crores. It is only the trading and miscellaneous undertakings like the SIC, MTC, SCI, AIR INDIA etc. which made a profit, but even among the enterprises in this group, quite a few continue to be in the red. The public are naturally perturbed because the argument of 'gestation period' cannot be put forward in respect of these enterprises, as most of them have been in existence for over a decade.

Various explanations have been offered for the lower returns of public enterprises : (1) It is said that many were started in hitherto un-explored fields where the initial risks were very great. (2) Many of these enterprises have become burdened with non-revenue earning assets like townships and other social capital. The huge amounts locked in capital works in progress have also tended to reduce rates of return. (3) There have been far too many labour disputes in recent years in these undertakings. (4) Public enterprises suffer from managerial and administrative difficulties. But most of these

<sup>1</sup> *The Indian Express*, 26 August 1961.

<sup>2</sup> *The Hindustan Times*, 26 January 1962.

'explanations' do not stand scrutiny.

The conclusion is inescapable that the poor performance of industrial and commercial undertakings in the public sector—despite the many advantages and facilities they enjoy—is the result of more deep-seated causes. These can be classified under two broad heads : those which are common to Government enterprises all over the world and those which are peculiar to India. In the former category may be mentioned the hangover of governmental procedures and methods which are completely unsuitable for the efficient running of business undertakings. The way in which accountability is sought to be enforced in India adversely affects the management of public enterprises.<sup>1</sup>

The net return of Hindustan Steel on its capital employed worked out at 2·4 per cent compared with a target rate of 10 per cent. Hindustan Steel by itself employs about half the total capital invested in all non-departmental public enterprises. The net return of all other running concerns on their aggregate capital ranged between 6·9 and 5·7 per cent. The Planning Commission calculated returns on total capital outlay with a time lag. Since total capital outlay is generally greater than the capital employed the comparable rates of return will work out even lower. It is, therefore, obvious, according to G. S. Bhalla, that there is a wide gap between the targets fixed by the Planning Commission and the actual performance of public enterprises in India. The most important deficiency in India's target setting procedures is the fact that so far these targets have been fixed only in an over-all manner. It is true that detailed studies should be undertaken on the nature and operation of each enterprise before specifying their financial objectives. It is also essential to fix precise financial targets, both for the success of planning in India and for the exercise of financial discipline in public enterprises.

Target setting is increasingly becoming an important tool in the financial administration of nationalised industries, both in the United Kingdom and India. In the United Kingdom, financial targets are now being set for each enterprise. If targets are fixed in relation to a set of maximum prices after careful cost studies and are combined with proper techniques of cost control, this policy can become one of the effective means of checking over all efficiency of the enterprises. In India, the surpluses of public enterprises are expected to become an important source for future investment and growth of the economy. Over-all targets for the surpluses of public enterprises have been fixed in the context of the planned development of the economy. But the government has not so far tried to fix specific financial objectives for each enterprise. This is a very serious deficiency which not only can harm the public

<sup>1</sup> Nabagopal Das, *op. cit.*, 54–56.

enterprises, but can also adversely affect the whole planning process.<sup>1</sup> The various defects in the working of public enterprises in India, according to T. Ramaswamy, may briefly be stated as follows : (i) In most of the undertakings output is low in relation to installed capacity. In some cases the capacity realised is below 10%. Hindustan Steel, Rourkela operated its fertilizer plant below 50% capacity incurring a loss of Rs. 2.4 crores in 1963-64. (ii) Plants frequently witness breakdowns. (iii) Capital turnover ratio is low. National Coal Development Corporation had a capital sales ratio of 1 : 0.22 in 1960-61 and 1 : 0.30 in 1963-64. Heavy Electricals had an investment-output ratio of 3.9 : 1. (iv) Delays are a perpetual feature in the working of these units. These embrace all aspects of operations. The importance of time as a critical resource is not realised. Commissioning is postponed and this results in loss of output and consequent earnings. Dues from clients are realised very late. (v) Financial requirements are not assessed periodically and in detail. Working capital is inadequate. No interest is levied for late payments by customers and heavy interest is paid on amounts borrowed by the company. Capital funds are diverted for financing day-to-day operations. (vi) Inaccuracy in accounting is not rare. Some of the invoices prepared by Indian Oil Corporation contained errors. In some cases credit and debit were raised against wrong parties. Accounting records are not adequate. (vii) Instances of under-recoveries and the resulting loss to the organisation are not rare. Seldom does the organisation prepare realistic estimates of expenditure and income. Hindustan Steel, Rourkela, revised its budget between 1955 and 1963 from Rs. 128 crores to Rs. 230.48 crores for an expansion in capacity by 80% from one million tonnes. (viii) Low labour productivity and high absenteeism.

To the above defects and difficulties, we may add those which are directly related to such factors as the frequent turnover of top management personnel and a bureaucratic attitude towards problems inside the undertaking. Personnel is the Achilles' heel in India's public sector undertakings. Successive committees and commissions have stressed the need for selecting the right type of men to run these units, but dependence on deputationists from the regular cadre of Government or on retired officials and ex-ministers who have been defeated at the polls still continues. As a result, very few of the top people have a sense of commitment in, and involvement with, the present and future fortunes of the enterprises they head. Even in the middle executive group there is the same pathetic dependence on deputationists. But recently an effort has been made to infuse 'new blood' in public sector undertakings by appointing, on contract for specified terms, men who have done well in the private sector. This infusion of 'new blood' has, however, been

<sup>1</sup> G. S. Bhalla, *op. cit.*, 306.

very limited partly because of the disparity in emoluments in the two sectors and partly because private sector employees are understandably chary of working under conditions in which they may not have the necessary freedom to manage things as they think best.<sup>1</sup>

Basically, the ills of the public sector in India stem from the following factors : (1) no real goals have been set for the country itself, therefore what industry should produce and for whom and so on no one can precisely state; (2) there is to be a socialist pattern of society but what socialist pattern is to be is anybody's guess; (3) there are inherent factors in the organisation and control of public sector which militate against progress; (4) there are politicians involved on two fronts : *firstly*, to bestow favours on their men by bringing pressure on managements; and *secondly*, those who are beholden to private industrialists take a hand in confounding the purpose of public industry for their own ends; (5) industry (which has certain positive controls built into it) cannot be run by inducting into the governmental patterns which are unsuited to it; and (6) labour, company and other laws are largely outdated. Often they operate by inhibiting initiative, ambition and the end of production.

The conclusion can be drawn that the administrative implications of planning for development in India have turned out to be deeper and more far-reaching than has been supposed. They involve new administrative relationship between existing agencies and also between non-official representatives and administrative and technical services functioning together in a new and complex network of institutions. At each level a large number of activities have to be brought into a common frame and, at the same time, their efficient execution has to be assured. Many of the relationships and processes implicit in this situation are not yet sufficiently clear.<sup>2</sup>

“The general considerations prompting the government to public enterprises in the country, viewed against the performance over two decades, reveal that the gap between aim and achievement is significantly wide. These original considerations aimed at continuous increase in production, most productive use of human and physical resources, social ownership of means of production, the State becoming a model employer, better consumer service and surpluses. Against these the country faces considerable idle capacity, wastage of resources, strikes, delays, high prices, poor quality product and low contribution from public enterprises. It is strange that in a socialistic pattern of society where the means of production in respect of certain key industries are owned by the State, strikes take place. It is alarming that strikes which function as the reverse gear to progress and increased output, are not discouraged by those

<sup>1</sup> Nabagopal Das, *op. cit.*, 58.

<sup>2</sup> R. B. Jain, *op. cit.*, 235 and 277.

who are in a position to do so.'

The main problem the undertakings face in relation to the ministries is that of delay in getting various requirements. These undertakings require speedy sanction in respect of : (1) clearance of the project, (2) appointment of top personnel, (3) release of industrial/import licence, (4) sanctioning of the expenditure, (5) release of funds, (6) release of foreign exchange, and (7) release of supplies. For smooth functioning, the ministries should keep the requirements of public enterprises handy. There is need for assuming a management function by them particularly in respect of planning and control. The requirements of funds, supplies, etc. should be scheduled and determined in advance; similarly they should exercise control over their functions by looking for deviations from objectives and devising corrective action. The ministries should have an information system.<sup>1</sup>

Realisation of objective calls for action on the part of Parliament as well. It should realise its role in relation to the objectives; immediate action required by it may briefly be mentioned as : (1) Develop criteria for determining national interest and judging performance of public enterprises; (2) Raise questions of a purposeful nature designed to improve performance; (3) Avoid discussions on trivial matters; (4) Keep members well informed; (5) Create awareness through members among the citizens, of the need for the commercial approach by public enterprises; (6) Diagnose problems and attempt to minimise their impact through right labour legislation; (7) Assign priority in the choice of areas for study by Committee on Public Undertakings and follow up recommendations; (8) Set up information and analysis unit in each House, and (9) Effectively measure management.<sup>2</sup>

The Government of India, Ministry of Finance, launched a major and well co-ordinated programme to bring about all-round improvement in the public sector enterprises through better management, higher production, higher returns on the large investments, already made and the prevention of wasteful expenditure. The entire programme is co-ordinated and directed by the Bureau of Public Enterprises which works in close cooperation with the administrative ministries and other statutory organisations, concerned and undertakes a wide range of activities, the most important of them being : (1) assisting selected units, which are not utilising the existing capacities to the full extent to determine the bottlenecks so as to increase as well as to diversify production; (2) ensuring better material control; (3) formulation of designs for township so as to standardise their development and to regulate their growth in proportion to the expansion of the related projects; (4) making a

<sup>1</sup> T. Ramaswamy, *op. cit.*, 51.

<sup>2</sup> *Ibid.*, 138.



thorough examination of those projects whose costs show an upward tendency; (5) surveying the utilisation of construction equipment with projects with the object of establishing common repairing and service pools; (6) investigating the existing system of financial control and management of projects at all stages of preparation, construction and operation with a view to suggesting improvements; and (7) assisting projects' authorities to formulate dynamic policies of management by providing consultancy services. With a view to providing expert guidance in each field, the Bureau set up four major divisions—construction, production, finance and general management. Each division, headed and manned by experts, provides direct guidance in matters, within its purview.<sup>1</sup>

The Government gave practical effect to some of the recommendations made by the Administrative Reforms Commission in its report on Public Sector Undertakings. The important ones were : (1) definition of the extent of control of the government for ensuring greater operational autonomy to the public enterprise; (2) appointment of whole-time functional directors and imposition of ban on the appointment of government officers as part-time chairmen; (3) introduction of measures for the development of management of the enterprises; (4) enlargement of the functions of the Bureau of Public Enterprises, particularly in the spheres of pricing policy, planning and scheduling of projects etc.; and (5) framing of guidelines for adoption of the new work techniques and delegation of powers, etc.

In the end, we may briefly refer to three other important suggestions for improving the performance of the public sector undertakings, which include a number of government corporations. The first is with regard to the participation of workers in the management. Placing representatives of workers on management boards would give them an opportunity to judge clearly what rise in wages the undertaking can afford. A step has already been taken by the Government for this purpose, through nomination of a prominent trade union leader as a member of the board of directors of the undertakings. The next step contemplated by the government is the nomination of a worker of an undertaking as a member of the board of directors to provide representation of the workers at the highest level of management. There should be a duly recognised workers' union in the undertaking, which should sponsor names from amongst the workers of the undertaking for appointment as director. In the case of multi-unit undertakings, the workers' representative in the control board of management may be selected by rotation from each unit, provided each such unit has a recognised union.<sup>2</sup>

<sup>1</sup> I. I. P. A., *Newsletter*, July 1971.

<sup>2</sup> D. Sarkar, 'Workers' Participation in the Management of Public Sector Undertakings', *I. J. P. A.*, Jan.-March 1973, 43.

The Committee on Public Undertakings strongly favoured the participation of workers and their representatives in management of public undertakings. What is meant by workers' participation was explained by the Committee in the following words : (i) workers, through their duly elected representatives, must physically participate in actual decision-making; (ii) this participation should be at all levels beginning from the shop level to the board of directors; and (iii) workers and their representatives should not only be consulted but should also feel that they are actual partners in management.

Second, if the government is serious about accelerating industrial growth and preventing concentration of economic power in private hands, the concept of a 'Joint sector' must be rescued from its present state of uncertainty, ambiguity and comparative neglect. It is true that the February, 1973 statement of Industrial Policy recognised this sector as a device which might be resorted to in specific cases having regard to the production targets of the plan as well as a promotional instrument to encourage new and medium entrepreneurs in developing 'priority' industries. At the normal pace at which the government moves, it may take years before this aim is spelt out and translated in a significant measure into reality. A greater sense of urgency, and a more positive effort in availing of the potential of the joint sector appear necessary and worthwhile.

In simple terms, the joint sector concept means that the government would be willing to associate private enterprise in common participation in ownership, control and management of industry. Naturally, the government would ensure for itself an effective role in guiding policies, management and operations, the actual pattern and mode being decided as appropriate in each case in the light of the government's larger social and economic objectives. The government has clarified that the joint sector would not be permitted to be used for the entry of larger houses, dominant undertakings and foreign companies into industries from which these are precluded under the Industrial Policy Resolution. All this is very well but falls short of a clear enunciation of government's intentions of the concept.

Third, labour relations must be improved. Productivity has been increased through good labour relations in the Heavy Electricals complex. Here not a single man-hour was lost through labour unrest in the past two years, it is claimed by the management. This is in contrast to the dismal situation that prevailed about four years ago. After losing a total of Rs. 59 crores till March 1971, this Rs. 100 crores project has made a profit of Rs. 5.08 crores in 1972-73, for the first time since it was started 14 years ago.

The aspirations of workers are said to have grown with the first taste of profits. Recently a demand was made for raising the

bonus amount well above the statutory minimum. Obviously, the factory is in no position yet to concede this demand as the real profits during the last financial year would be only a little more than Rs. 3 crores. There were no moratorium or an 'interest-holiday' against the declared profit of Rs. 5.08 crores. Perhaps an effective plea to the workers not to press their demand in view of the massive losses suffered in the past would strike a responsive cord in them.

A review of the role of the public sector discloses that with the rapid expansion of this sector during the last 10 years in a number of industrial and service areas, more than 50 per cent of the activity in the organised sector has been brought under its command. Their commanding position is noticeable in about 50 industrial products and specialised services which are vital to economic development and to the common man. The advance of public units to these commanding heights has led to the emergence of the public sector as one of the potent sources for financing development plans, thus fulfilling one of its major roles.

The Union Government's industrial and commercial undertakings made a record net profit before payment of tax of Rs. 312.48 crores in 1974-75. This was more than double the profit of Rs. 148.68 crores in 1973-74. With the gross investment of Rs. 7,261 crores and a turnover of Rs. 10,217 crores, this represented an all-time record return on capital employed of 8.4 per cent and a return on paid-up capital of 4.9 per cent.

According to the Director General of the Bureau of Public Enterprises, there was every likelihood that the net profit before tax in 1975-76, would be even higher, at about Rs. 350 crores. The highlights of the public sector, which now has 129 corporations, eight of which are being set up are : Investment Rs. 7,261 crores, Turnover Rs. 10,217 crores, Gross profit before tax and interest Rs. 559 crores, Net profit before tax Rs. 312 crores, Net profit after tax Rs. 184 crores, Internal resources generated Rs. 580 crores, Exports Rs. 675 crores, Employment 1.4 million, and Salaries and wage bill Rs. 1,053 crores.

Highlighting the changes made it may be said that Public Sector Selection Board came into being not only to find suitable people for the sector, but to plan careers and management. During 1975-76, year the Tandon Committee submitted its report and its recommendations will be applied to the public sector. The Bureau of Public Enterprises evolved a Model Management System on the basis of the systems practised in the better Indian companies and some foreign companies.

The problem of measuring capacity had been given fresh attention. The National Productivity Council was trying to evolve suitable norms for measuring it. In general terms, capacity utilisation

in the public sector had improved, the number of producing corporations using more than 75 per cent, rising from 41 (50 per cent of the total) in 1972-73 to 54 (55.5 per cent) in 1974-75.

A major change had occurred in the Government's approach determining wages and salaries. The earlier freedom given to enterprises had been curbed since it had resulted in very disproportionate salary and wage structures within and between enterprises. Now the structure of wages and salaries could not be changed without the cabinet's approval. Among the measures for rationalisation undertaken by the Bureau of Public Enterprises was a uniform DA formula and grades brought generally in line with one another.

It is now a fact that public sector to-day is much better off in the aggregate, but there is a need for continuing public and parliamentary vigilance so that its defaults are not covered by the rising profits. Indeed, there is now an opportunity to isolate the problem areas and to tackle them in a resolute manner, which was not possible earlier in the face of far more widespread difficulties.

## CHAPTER XVIII

# ADMINISTRATIVE LAW AND ADJUDICATION

### I. MEANING OF AND NEED FOR ADMINISTRATIVE LAW

An American author, K. C. Davies, defines administrative law as the law concerning the powers and procedures of administrative agencies including especially the law governing judicial review of administrative action. But this definition does not seem to include administrative functions other than legislative or quasi-judicial. According to Sir Ivor Jennings, 'Administrative law is the law relating to the Administration. It determines the organisation, powers and duties of administrative authorities.' F. J. Goodnow broadened the definition to encompass that part of the public law which fixes the organisation and determines the competence of the administrative authorities, and indicates to the individual remedies for the violation of his rights. Recently great emphasis has been laid on two problems of administrative law—first, administrative legislation ; and second, administrative adjudication. The fundamental point is that there should be rule of law, *i. e.*, administrative action of all authorities should be within the limits prescribed by law and subject to judicial control.

The Indian Institute of Law opined, 'Administrative law deals with the structure, powers and functions of organs of administration, the methods and procedures followed by them in exercising their powers and functions, the methods by which they are controlled and the remedies which are available to a person against them when his rights are infringed by their operation.' M. C. J. Kagzi sums up the topics of administrative law as : (1) Delegated legislation; (2) Judicial functions of the administrative agencies, administrative tribunals, procedural guarantees, jurisdiction of the Supreme Court and the High Court over the administrative agencies and tribunals; and (3) Governmental liability, immunities of the administrative bodies from suits, remedies available against the Union of India and the State instrumentalities.

With regard to the need of administrative law it has been observed that there is no need for an administrative law in a primitive society, where the functions of government and public authority are

extremely limited, nor does it have any real place in a totalitarian system of justice where all law tends to turn into administration. 'It is in a democratic society of the modern type, in a society which does recognise the inevitably and vastly expanded functions of modern government, but also rules to preserve the rights and liberties of the citizen that administrative law is required, and I believe that it is particularly necessary and important in a mixed economy such as it is developing in India. This is a society in which the state directly or through a vast number of political authorities exercises not only regulatory and administrative, but also entrepreneurial functions, but in which private enterprise and private liberties are also preserved. I cannot think of a more interesting laboratory for the development of administrative law than India.'<sup>1</sup>

The growth of administrative tasks and, therefore, of a vast new complex of relations between the public authorities and the citizens has given rise to a new branch of law known as administrative law. Other reasons for its phenomenal growth are : (1) The judicial system with ordinary courts has proved inadequate for adjudication of certain kinds of issues or disputes. The system of ordinary courts results in delay and expense. It also lacks the expert knowledge that is necessary to adjudicate certain modern disputes. (2) Modern legislatures are burdened with work, so they are not able to provide for the detailed rules that are necessary to regulate the complex of socio-economic relations in the society.

At present, administrative law is found in almost all countries. Its main sources are : (i) the constitution of the country, (ii) legislative enactments or statutes, (iii) ordinances, rules, regulations etc., (iv) judicial decisions, (v) customs and conventions, and (vi) charters granted by the central authorities to local bodies, etc. The scope of administrative law is very wide. It includes : (a) problems of civil service, (b) problems of financial administration, (c) administrative tribunals, (d) administrative regulation, (e) administrative bodies, (f) remedies against administrative action, and (g) claims against government.

In this section the term 'administrative law' is used in a special sense. 'Wherever disputes growing out of the relations of public officials with private citizens have to be adjusted, there arises a body of rules according to which the liabilities of officials, the rights of citizens, and the procedures for establishing such liabilities and rights are determined—in other words, a system of administrative law.'<sup>2</sup> Broadly speaking, there are two systems of such laws as far as judicial control over administrative action or the question of providing

<sup>1</sup> See W. Friedmann's Lecture, 'Administrative Law in a Changing World' at I. I. P. A., 24 January 1962.

<sup>2</sup> H. Zink, *Modern Governments*, 368.

legal remedies to those who are wronged by administrative action, are concerned. One system, which prevails in UK, USA etc. is known as the 'Rule of Law' and the other found in France and continental countries is called 'Administrative Law'.

In English-speaking countries, this kind of administrative law is not much different from ordinary law, because both are applied by the same courts on more or less similar lines. But in France there is a separate system of courts to administer and apply it, with the result that administrative law forms a separate body of law. Whereas ordinary law is enacted or codified law, administrative law is mainly case law, built up by a lengthy process of court decisions. French 'administrative law' or 'droit administratif' has been defined by French authorities in general terms as 'the body of rules which regulate the relations of the administration or of the administrative authority towards private citizens.' It may be best described as that portion of French law which determines : (i) the position and liabilities of all State officials, (ii) the civil rights and liabilities of private individuals in their dealings with officials as representatives of the State, and (iii) the procedure by which these rights and liabilities are enforced.<sup>1</sup>

#### ADMINISTRATIVE JUSTICE

'Some of the orthodox standards and norms of substantive and procedural justice based on the concept of the 'rule of law' which are valid for disputes between one individual and another with a neutral State in the background have been continuously under fire ever since the advent of the 'administrative state' with its social and economic commitments. The problem seems to be more acute in the common law countries, where under an overworked notion of equality before law no separate corpus of law and jurisprudence was recognized to govern the action of the State in relation to the individual. In the Continent, however, a separate jurisprudence of administrative law and a separate judicial apparatus have been slowly and consciously evolving to adjudicate between the State and the citizen.' The basic problems and issues in administrative law in a Welfare State can briefly be enumerated as follows :

(a) The concept of equality before law which may govern the relationship between one individual and another may not always be applicable between the State and the individual. In matters relating to national security, budget, etc., a reasonable degree of sovereignty and immunity has to be provided to the State.

(b) In contradistinction to the above, where the State begins to participate in economic activities and interferes with private rights or property, some of the traditional immunities of the State

<sup>1</sup> A. V. Dicey, *Law of the Constitution*, 332-33.

may have to be rationalized, e.g., secrecy of documents, etc.

(c) Policy and administrative discretion used to be left alone by the ordinary courts of law in the past, as political remedies were adequately available to the citizen in the democratic institutions at the central and the local levels. Because of the complexity and volume of governmental functions, political check is now very nominal. The remedy is either to (i) modernise Parliament or (ii) extend the scope of the ordinary courts or (iii) have administrative courts and tribunals or independent bodies to go into the merits of individual cases.

In the Continent, the administrative court have been proliferating independently of the ordinary courts. In the United States, executive matters are being delegated more and more to the Independent Regulatory Commissions outside the reach of the Congress and the President. In the UK administrative decisions are progressively being shaped, made and reviewed outside the Whitehall complex, by the administrative tribunals, nationalized industries, statutory licensing and trading boards, professional regulatory bodies (e.g. Air Transport Licensing Board, and Potato Marketing Board), semi-administrative bodies (Hospital Management Committees, Regional Hospital Boards) and advisory bodies with representative interest groups (National Economic Development Council, Prices and Incomes Board, etc.). The minister retains only the powers of appointment, of issuing policy directions and in certain cases reviewing the decisions.

(d) The fundamental principles of natural justice—hear the other party before giving a decision, one cannot be a judge in his own case—are being found in certain cases to be in conflict with the operational needs of speed and efficiency. In cases of licensing or town and country planning where a policy decision may affect hundreds of thousands of individuals, it may not be possible to hear each and every person affected. Similarly, where the minister is politically committed to a particular policy, namely, development of new towns, to say that by rejecting objections to the establishment of a new town, he is acting as a judge in his own case will be unrealistic. The effort in the various countries today is to so harmonize the interest of private justice with the interest of the public welfare as would enable the operational goals to be achieved with reasonable efficiency while giving a sporting chance to the individual adversely affected.

#### ADMINISTRATIVE PROCEDURE CODE

Subsequent to the passage of the Administrative Procedure Act in the USA, various other European countries have been adopting similar acts to temper administrative authority with elementary justice. The Administrative Procedure Act of Yugoslavia,



for instance, was passed in 1957 to govern the administrative acts of officials, when they decide on rights, obligations or legal interests of the individual. This Act contains 298 articles and 761 sections besides some general principles of legality and 'intra vires', harmonization of private rights with the public interest, obligation to determine all relevant facts and their conscientious assessment and the principles of natural justice. Failure to act on the part of the official within the prescribed time limit is deemed to be an adverse decision appealable to courts as a matter of course. The other principles include the right of legal representation, public hearing, disqualification on grounds of bias, obligation to give written decisions and to disclose the reasons. Similar codes have been prescribed in Poland, Hungary, Czechoslovakia, Denmark and Austria.

The following features of the British process relating to transport licensing and disposal of complaints against a doctor under the National Health Service (NHS) may be noted : The application at the original stage is handled by either the independent Area Commissioners or by the Service Committee and the local Executive Council either of which consists of laymen, representatives of the local authorities and those of doctors, dentists, and pharmacutists. The licence applications are heard by the Commissioners after they have been published for objections. The parties are heard in public in an informal atmosphere with flexible rules of evidence. The Commissioners can suggest to the parties to confer and settle objections. There is no interference from the ministry at this stage and though, under the statute, the minister is empowered to issue policy directives to the Commissioners, no such directive has ever been issued. Any person aggrieved by the original decision can go in appeal either to the minister or to a county court or to the Transport Tribunal as indicated in the chart. The NHS Tribunal consists of the chairman who is a lawyer, one lay member and one professional member selected from a panel. They are not paid any salary. The chairman is appointed by the Lord Chancellor (a Cabinet member) who is also the head of the British judiciary. So far as appeals to the minister are concerned, the British interpretation is that the decision of the minister has to be an amalgam of law, facts and policy. So far as ascertainment of law and facts and their proper assessment is concerned, this is generally done through a public enquiry held by an inspector or an enquiry officer, who, in case of traffic appeals, is independent of the ministry.<sup>1</sup>

'Administrative Law' is regarded as the law of the 20th century. Eighty per cent of the litigation at the present day is between the individual and the administration and involves one principle or the

<sup>1</sup> Shankar P. Mukerji, 'Government without Tears—A Survey', *I.J.P.A.*, April-June, 1968, 281-89.

other of administrative law. Administrative Law has grown out of the necessity to control administrative powers which the administration enjoys vastly these days for the welfare of the people. Whether it is the capitalistic society of the United States or the societies committed to establish democratic socialism, like India, government regulation of human activity is the order of the day. Ungarbled capitalism does not exist anywhere on the globe. It is only in relative quantity and significance that the regulations may differ from country to country. In the common law world, India is perhaps the most administered state. Reasons for this are apparent. Its economy is developing, thus necessitating planning, regulation of private enterprise and marshalling limited resources to the best advantage. *Secondly*, India is committed to establish an egalitarian order. *Thirdly*, not too well stable law and order situation in the country has also resulted in conferment of administrative powers on the executive. The law relating to preventive detention is the case in point.

The post-Independence era saw the Statute Book growing up at an accelerated pace. Number of new enactments came to be passed to regulate the different aspects of human activity. For instance, in the field of business were enacted statutes, like the Imports and Exports (Control) Act, 1947 ; the Companies Act 1956 ; The Industries (Development and Regulation) Act, 1951 ; the Essential Commodities Act, 1955 ; the Foreign Exchange Regulation Act, 1947 ; the Tea Act, 1953 ; and the Rubber Act, 1947. Then there were enacted laws to improve the economic and social welfare of the labour, like the Industrial Disputes Act, 1947 ; Minimum Wages Act, 1948 ; the Factories Act, 1948 ; Employees' State Insurance Act, 1948 ; etc. The statutes mentioned here are merely an iota of the mass of legislation enacted after 1947.

The result has been a vast expansion of the powers of the administration. The momentum has, however, not exhausted itself. This is substantiated by a number of new enactments passed by Parliament to regulate various human activities during the last five or six years. A few of these statutes are : The Unlawful Activities (Prevention) Act, 1967, which empowers the Central Government to declare an association as unlawful if, in its opinion, it is such ; the Cardamom Act, 1965, which empowers the Central Government to establish a Cardamom Board for the development of the cardamom industry ; the Customs (Amendment) Act 1969, has given wide powers to the authorities to check illegal importation and exportation of goods ; the Gold Control Act, 1968, which provides for the control of production, manufacture, supply distribution, use and possession of, and business in gold ornaments and articles of gold and confers wide powers on the administration for these purposes.

The increase in the functions of the administration has created a vast new complex of relations between the administration and the citizen. There is not a moment of a person's existence when he is not in contact with the administration in one way or the other. This circumstance has posed certain basic questions for administrative law. Does arming the administration with wide powers keep in view the interests of the individual? Are adequate precautions being taken to ensure that the administration does not misuse or abuse its powers? Do the administrative agencies follow, in discharging their functions, such procedures as are reasonable, consistent with the rule of law, democratic values and natural justice? Bestowal of sweeping powers on administrative organs demands adequate control-mechanism to ensure that officials do not use their powers in an undue manner or for an unwarranted purpose, and that the individual has adequate remedies for the wrongs of the administration. There is a variety of control-mechanisms. Some may be provided by the statute conferring powers over the administration, e. g., provisions for administrative appeals, an administrative tribunal, an advisory board, reasonable opportunity of being heard to the individual concerned, etc. But all these checks may not give sufficient assurance to the individual that the powers have been exercised properly in his case, as these controls are part of the administrative process itself.

India still follows the antiquated and outmoded law that the government cannot be sued for the tort of its servants committed in the discharge of its sovereign functions. This immunity of the government was borrowed in India from England where it arose from the maxim 'King can do no wrong', which implies that no wrong could be imputed to the Crown nor could it authorize a wrong. In England, the position has been changed by the Crown Proceedings Act 1947, which has made the Crown liable for its torts, like a private person of full age and capacity subject to such exceptions as defence of realm, maintenance of armed forces and postal services. In the United State of America, the Federal Tort Claims Act, 1946 has been enacted to restrict the immunity of the government for its tortuous acts.<sup>1</sup>

## II. ADMINISTRATIVE TRIBUNALS

'The development of administrative law in a welfare state has made administrative tribunals a modern necessity, since they have distinct advantage over the ordinary courts because they ensure cheapness, accessibility, freedom from technicality, expedition and

<sup>1</sup> S.N. Jain, 'Trends and Developments in Administrative Law in India,' *I. J. P. A.*, July-September 1971, 396-99.

expert knowledge of their particular subject.'<sup>1</sup> Administrative law is primarily a judge-made law and it is still in a developing stage. It does not consist of clearcut principles and neat formulae.<sup>2</sup>

Administrative tribunals or courts are 'authorities outside the ordinary court system which interpret and apply the laws when acts of public administration are attacked in formal suits or by other established methods.'<sup>3</sup> In other words, they are agencies created by specific enactments to adjudicate upon controversies that may arise in the course of implementation of the substantive provisions of the relevant enactments. They are not bound by the elaborate rules of evidence or procedure that govern the ordinary courts and they are only required to follow the procedure prescribed by the relevant law and observe the principles of 'Natural Justice'. Decisions of such tribunals are not reviewable by courts on writs and are reviewable only on grounds like (a) lack or excess of jurisdiction, (b) failure to adhere to principles of natural justice or fair hearing, (c) bias, (d) error apparent on the face of the record, and (e) failure to observe the prescribed procedure.

Administrative adjudication may be done through different agencies, such as : (i) the minister, (ii) the permanent head of the department, (iii) departmental tribunal, (iv) special committee, and board or commission, (v) specialised court of law. These may be either single-member tribunals or composite tribunals. Different types of administrative tribunals found in Britain and India are mentioned in the following account. Such tribunals aim at bringing about the much desired reconciliation between classes of individual rights and demands of public good. An administrative adjudication body 'must satisfy the general body of citizens that it is proceeding with reasonable regard to the balance between the public interest which is promoted and the private interest which it disturbs.' When disputes arise between the individual or individuals whose rights are encroached upon and the public authority bent on enforcing a policy or on maintaining or improving a standard, they are now usually resolved by specially constituted tribunals outside the pattern of ordinary or traditional courts or by the adjudication of the Minister himself. Arguments generally put forward in favour of administrative adjudication are cheapness, speed and the need for basing decisions on public interest.

The characteristics of administrative tribunals may be stated as : (1) They are established by the executive under provisions of a statute. (2) Though they perform quasi-judicial functions or judicial functions, they are not courts. (3) They are not bound by

<sup>1</sup> H. M. Seervai, *Constitutional Law of India*, 896.

<sup>2</sup> For detailed study see M. P. Jain and S. N. Jain, *Principles of Administrative Law*.

<sup>3</sup> See *Encyclopaedia of Social Sciences*, Vol. III, 1954, 529.

the technical rules of the Civil Procedure Code and the rules of evidence of the Evidence Act. Nevertheless, they adopt rules of procedure which may be prescribed in the statute, or may be prescribed by rules made under the statute, or may be adopted by the tribunal itself. (4) Such tribunals have the powers of civil courts in certain matters and their proceedings are considered to be judicial proceedings. (5) They have to follow the principles of natural justice in deciding the cases. (6) Usually their function is to decide disputes out of the programme of a welfare state. The disputes referred to them may not be the conventional type of disputes that arise before an ordinary court.

According to Dr. M. M. Singh the advantages of justice by tribunals may briefly be stated here. The reasons for the growth of tribunals partially supply the basic advantages which tribunals enjoy over courts. But there are also other distinctive qualities which tribunals possess :

(1) It provides a sympathetic form for settling controversies. It looks upon adjudication as a living instrument capable of a creative role. The old judiciary is neutral, but the judiciary has the task of serving social interests; and its value lies in the manner it is able to fulfil this task, and yet render justice to the party before it.

(2) Tribunals are useful for furthering positive social ends. A court of law cannot be an instrument for the furtherance of a particular policy, except that the socialist countries look upon the court as an instrument for furthering the ends of the state. Tribunals do not suffer from the theoretical or practical limitations of the courts. They are meant to operate as instruments for furthering public policies, and also have the necessary equipments for the performance of this task. So far as the adequacy of the new judiciary to combine the twin principles of social justice according to law is concerned, it may be pointed out that by placing at its disposal wider discretion, flexibility in approach, and summary procedure, it has been properly equipped to evolve suitable norms and give justice to particular cases. When the State has assumed the responsibility for not only protecting what an individual has but also for providing him with what he needs, this new task cannot be fulfilled without a change in the attitude towards law and the agencies making and administering laws. In periods of rapid changes, tribunals with greater flexibility and discretion and lesser letters of precedents and legal categories are likely to prove most valuable.

(3) As a sympathetic adjudicatory forum with a free decision-making scheme at its disposal, a tribunal is helpful in evolving new norms to meet new social needs and novel fact situation. This ensures a constant adaptation of judicial processes to social needs as well as ensures certainty and continuity in the administration of justice according to law in new areas of public affairs. It has been

found that in certain types of cases, where courts of law have displayed a bewildering variety in their decisions, tribunals have generated uniformity and consistency. Tribunals, acting on the basis of long experience of actual fact situations, gradually evolve general norms applicable to individual cases.

(4) Felicitous procedural simplicity and atmosphere of informality before a tribunal constitute another beneficial feature of justice by tribunals. An ignorant villager may be overawed by the solemnity and prestigiousness of a court, so it is necessary that judicial proceedings should be intelligible to the average man. Besides, an informal proceeding may generate an atmosphere of conciliation and mutual understanding, which may be indispensable for settling certain types of controversies.

(5) Justice by tribunal is less expensive than the justice rendered by the courts, and this is an important advantage in a poor country, where beneficiaries under social welfare schemes are extremely poor. Litigation in a court of law is a luxury which is forbidden fruit for the teeming millions. Tribunals, unlike courts, are not places where justice is sold at a highest price.

(6) Speed is another advantage of justice by tribunals. It is often said that justice delayed is justice denied, but this is a common feature of courts of law. The process of a law court has become an outmoded system for doing justice to a case, at least in areas in which new rights and obligations are frequently emerging and are being recognised. Besides, certain classes of persons, who are being given new rights and subjected to new obligations, do not have the capacity or the time to pursue lengthy law suits, day in and day out.

(7) Expertise is also an advantage appertaining to justice by tribunals. This is an age of specialisation and a generalist in all human affairs is giving into the specialist. A specialised knowledge of the subject matter has become necessary for efficiently taking care of any claim or obligation relating to it.<sup>1</sup>

### III. ADMINISTRATIVE TRIBUNALS IN INDIA

In India, as in many other countries, there has been a phenomenal rise in the number of administrative tribunals and the amount of administrative adjudication. According to a statement of the Union Law Ministry in 1958, there were as many as 100 tribunals operating under the Central Acts alone in India. One of the earliest and most important administrative tribunal has been the Railway Rates Tribunal; Section 46A of the Indian Railways Act 1890 declared the decision of the Tribunal to be final. The constitution of the Tribunal as amended by an Act of 1948 is given in the

following pages. The Motor Vehicles Act IV of 1939 has constituted administrative tribunals for the purpose of controlling the road traffic.

The administrative authorities like the Regional Transport Authority and Appellate Authority are often brought before the courts by individuals who feel themselves aggrieved by their acts. The Indian Medical Council Act, 1933, the Dentists Act, 1948, and the Indian Pharmacy Act, 1948, provide for a kind of self-regulation of the professions concerned by elected representatives of the members. These Acts do not make any provision for court review of the decisions made by the Provincial or Indian Councils. Government controlled specialised agencies, namely, the Indian Rubber Board, the Central Silk Board, the Central Tea Board, and the Coffee Board also bar court action. For example, section 22 of the Rubber Act, 1947 states that all acts of the Board shall be subject to the control of the Central Government, which may cancel, modify or suspend as it thinks fit any action taken by the Board. Section 28 prohibits all suits, prosecutions and other legal proceedings against the Board or any of its officers or anything in good faith done or intended to be done.

There has been a considerable growth in the number of administrative tribunals in India, particularly since Independence. They have now become an indispensable part of the governmental machinery in this country. The Law Commission in one of its reports noted that the number of statutes which provide for constitution of such tribunals 'runs in legion'. The actual number may run over 3,000. Some of these have been established under Central Statutes, while others have been created under the various laws of the State Governments. Some of them are purely administrative in their functions while the others are quasi-judicial. The agencies for administrative adjudication in India may take various forms such as (i) the Minister himself, (ii) the permanent head of the department, (iii) a ministerial tribunal, (iv) a special committee or commission, (v) specialised courts of law, (vi) single member tribunal, or (vii) composite tribunal.

The device of the administrative tribunals as a standing machinery of adjudication has been in use in certain fields of administration, such as income tax (The Income Tax Appellate Tribunal); railway rates (The Railway Rates Tribunal); industrial relations (Labour Courts, Industrial Tribunals); and election disputes (Election Tribunal). Sometimes the Government also appoints ad hoc tribunals; the Life Insurance Act, 1956 authorised the Central Government to establish one or more tribunals to determine the compensation to be paid to insurance companies for the business taken over by the Corporation. The Income Tax Appellate Tribunal hears appeals from the orders of the Appellate Assistant Com-

missioners of Income-Tax who are the first appellate authorities for appeals from the orders of income tax officers.

#### RAILWAY RATES TRIBUNALS

A Railway Rates Tribunal with mandatory powers was set up under the Indian Railways (Second Amendment) Act, 1948, with headquarters at Madras. The Tribunal as constituted under the Act in 1949 consisted of three members, one President and two members, all of whom were persons qualified to be appointed as judges of the High Court. The Tribunal as constituted under the 1948 Act, was assisted in its investigations by assessors, appointed by the Central Government. The assessors were grouped in two panels: (i) the trade, industry, and agriculture panel; and (ii) the railway panel. The assessors do not take part in the discussions of the Tribunal, they only give their opinion immediately on the conclusion of arguments and the Tribunal reserves the judgment. The functions of the tribunal are to hear and decide complaints against the Railway Administration in respect of undue discrimination, quotation of unreasonable rates, refusal to quote station to station rates, etc. Its jurisdiction covers a wide area of possible grounds of complaints, it can modify the heads dealt with by the Railway Rates Advisory Committee replaced by the Tribunal.<sup>1</sup>

#### OTHER TRIBUNALS

Under the U.P. Industrial Disputes Act, 1947, there existed upto 1957 a State Industrial Tribunal and the Adjudicators for the settlement of disputes between labour and the employees. By an amendment to the Act in 1957, the State Industrial Tribunal and the Adjudicators had been replaced by three tribunals at Allahabad and four Labour Courts, each at Meerut, Bareilly, Kanpur and Gorakhpur. There are certain other agencies of the Government which exercise judicial powers of a limited nature, such as the collectors of customs and excise, the Central Board of Revenue or Boards of Revenue in the States. These bodies consist of permanent civil servants and cannot be called tribunal in the true sense of the word. As a matter of fact they are a part of the normal administrative machinery.

The 32nd Amendment Act, 1973 provides for the constitution of an Administrative Tribunal (by the order of the President) to exercise such jurisdiction, power and authority which immediately before it was exercisable by any court or by any tribunal or authority, as may be specified in the order with respect to the following matters, namely (a) appointment, allotment or promotion

<sup>1</sup> Amba Parsad, *Indian Railways*, 360-94.



to such class or classes of posts in any civil service of the State, or to such class or classes of civil posts under the State, or classes of posts under the control of any local authority within the State, as may be specified in the order; (b) seniority of persons appointed, allotted, or promoted to such class or classes of posts in any civil service of the State, or to such class or classes of posts under the State, or to such class or classes of posts under the control of any local authority within the State, as may be specified in the order; and (c) such other conditions of service of persons appointed, allotted or promoted to such class or classes of posts in any civil service of the State, or to such class or classes of civil posts under the State, or to such class or classes of posts under the control of any local authority within the State as may be specified in the order (Article 371-D).

Parliament may, by law, provide for the adjudication or trial by administrative tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public service and posts in connection with the affairs of the Union or of any State, or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government. Further, the appropriate Legislatures may by laws provide for the adjudication or trial by tribunals of any disputes, complaints or offences with respect to all or any of the specified matters with respect to which such Legislature has power to make laws.<sup>2</sup>

Prior to the setting up of the Vigilance Commission, the Administrative Tribunal, U. P. established in 1947 under statutory rules, viz., the U. P. Disciplinary Proceedings (Administrative Tribunal) Rules, 1947, enquired into only selected cases of corruption and misconduct on the part of government servants, as were referred to it by the Government. Formerly, the Member (Administration), Board of Revenue, U. P. was also the President of the Tribunal. Later, the Chairman, Vigilance Commission, was the second Member of the Tribunal. Under the present set-up, the Tribunal consists of two members, one of whom is an officer of adequate seniority to be the head of a department or the Commissioner of a Division and the other a judicial officer qualified for appointment as a judge of the High Court. The Rules, as amended by the U. P. Disciplinary Proceedings (Administrative Tribunal) (Amendment) Rules, 1969, provide for one or more such Tribunals. One of the members of each Tribunal is nominated by the Government as its Presiding Officer. Since March 1968, a Tribunal is also assisted by an Assessor, who is appointed by the Government, taking into account the rank of the charged government servant. He is

<sup>2</sup> Article 323 A and B, inserted by the 42nd amendment of the Constitution.

preferably of the same department. Government can, if it is satisfied that it is expedient to do so for the ends of justice, transfer any case pending before any Tribunal either to another Tribunal having a new set of members or replace the assessor appointed to assist it. The replacement of a member or assessor, or transfer of a case from one Tribunal to another, does not necessitate the reopening of the proceedings or a *de novo* enquiry into it. If a member or assessor is absent at a particular hearing, the remaining member with the assessor or the members without assessor can proceed with the case.

The following categories of cases can be referred to the Tribunal for trial : (a) corruption, (b) failure to discharge duties properly, (c) irremediable general inefficiency in a public servant of more than ten years standing, (d) personal immorality, and (e) wilful or flagrant violation of the Uttar Pradesh Government Servants' Conduct Rules, or other Rules or Orders issued by the Government or any other competent authority. Cases are referred to the Tribunal by the Vigilance Department. The proceedings of the Tribunal are held in camera and neither the prosecution nor the defence has right to be represented by counsel. In conducting enquiries, a tribunal is guided by rules of equity and natural justice and is not bound by formal rules relating to procedure and evidence. The Tribunal, where it is satisfied that punishment should be imposed, formulates its recommendations about the punishment, which in addition or as alternative to the punishments defined in the Civil Service (Classification, Control and Appeal) Rules, may also include compulsory retirement with or without full or proportionate pension or with or without gratuity or compassionate allowance, as considered suitable.

Even before the 42nd amendment Bill was introduced in Parliament, U. P. Government had issued the Public Services (Tribunals) Ordinance 1975, which was converted into an Act later on, providing for the constitution of two or more tribunals, each called the State Public Services Tribunal. The Government has already constituted two such tribunals and each tribunal consists of a judicial member and an administrative member. The judicial member is to be a person who has been or is qualified to be a judge of a High Court and an administrative member is a person who holds or has held the post of or any post equivalent to the Commissioner of a Division. One of the members of the tribunal is to be designated by the State Government as Chairman of the tribunal, but if the tribunal consists of a judicial member who is or has been a judge of a High Court, he shall invariably be the Chairman.

The provisions of the Limitations Act, 1963 have been made applicable to all references made to the tribunals. The tribunals have been given certain powers provided in CPC and in regard to the rules of evidence as provided in the Indian Evidence Act. The

tribunals under the Act are expected to be guided by the principle of natural justice. An award made by the tribunal is binding on the claimant and against his employer or any other public servant and such order remains uncomplished for a period of 3 months, the tribunal can, on his application, issue a certificate for recovery of the amount awarded, or as the case may be, for other relief granted by it.

The Assam Government, by an ordinance enforced from 3 January 1977, constituted the Assam Administrative Tribunal to adjudicate disputes in respect of certain conditions of service of certain classes of civil servants of the State. It has jurisdiction to entertain and dispose of appeals made by civil servants against any order passed by a competent authority in respect of any condition of service. The Tribunal is deemed to be a civil court for the purposes of Sections 345 and 346 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) and the Contempt of Courts Act, 1971 (Central Act 70 of 1971). The proceedings before the Tribunal shall be deemed to be judicial proceedings within the meaning of Section 193 of the Indian Penal Code, 1860 (Central Act No. 45 of 1860). As a result, all suits or proceedings in respect of any matter specified in the ordinance, pending before civil courts or other authority, stand transferred to the Tribunal.

A high-power Committee (Chairman Mr. Justice D. A. Desai of the Gujarat High Court), appointed by the Gujarat Government in 1972 to review the existing labour laws, submitted its report to the State Government towards the end of September. The Committee has recommended amendment of the Industrial Disputes Act to provide for direct access of workers to labour courts in respect of individual disputes, without approaching the government for reference of such disputes. The report has also urged that the labour courts be invested with summary powers for the recovery from employers of dues to employees. The labour courts should give a month's notice to the employers and then directly proceed to recover the dues from defaulting employers and direct their detention till the money is paid subject to a minimum detention period of six months. According to the Committee, violation of labour laws should be punishable with imprisonment and labour offences should be tried only in labour courts and not in ordinary criminal courts.

The Committee has recommended that it should be made obligatory for industrial employers to recognise one union with more than 15 per cent membership. If there were more than one such unions, the recognition status should be ascertained by secret ballot among workers. Pointing out the need to eliminate delays in the adjudication of labour laws, the Committee has recommended that industrial disputes, like termination of services, should be disposed of within three months and the workers should be paid a non-refundable sum amounting to half the basic wage and full dearness

allowance during this period.

Other important recommendations made by the Committee are : (1) Labourers should be paid full wages during a lay-off and 75 per cent in the case of sudden breakdowns or natural calamities. (2) The weekly off should be a paid holiday for daily and casual labourers also. (3) Overtime wages should be taken into account to calculate minimum bonus. (4) The principle of need-based wages evolved at the fifteenth labour conference should be statutorily recognised under the Minimum Wages Act. (5) All recruitments to industrial units should be made through the employment exchanges.<sup>1</sup>

*The Copyright Board.* It established under the Copyright Act, 1957, consists of a Chairman and members not exceeding 18 in number. The Chairman and members are appointed by the Central Government. A person having the qualification for being appointed as a judge of a High Court can be appointed the Chairman. The function of the Board is to decide the following questions : (a) whether for the purposes of section 3, copies of any literary, dramatic, musical or artistic work or records, were issued to the public in sufficient quantities or (b) whether for the purposes of section 5, the term of copyright for any work is shorter in any other country than that provided in respect of that work under this Act.

*The Court of Survey.* It constituted under the Merchant Shipping Act, consists of a judge and two assessors. The judge and one of the assessors are appointed by the Central Government. The judge member must have been a district judge or a judge of a small causes court. The second assessor is appointed by the judge member from a list prepared by the Central Government. The court hears appeals against the decision of the surveyors regarding seaworthiness or otherwise of a ship.

For purposes of Sections 193 and 228 and for purposes of Section 196 of the Indian Penal Code, the proceedings of the tribunals are declared to be judicial proceedings. The tribunals are also deemed to be civil courts for purposes of sections 480 and 482 of the Code of Criminal Procedures. Decisions of the tribunals are made by the majority of members hearing the case. The tribunals are obliged to follow the rules of natural justice and to act with openness, fairness, and impartiality, so as to enable the courts to exercise broader review of administrative actions.

#### IV. JUDICIAL CONTROL OVER ADMINISTRATIVE TRIBUNAL

Although the orders, determinations and decisions of various administrative tribunals and administrative bodies are very often made final, yet the civil courts can interfere with the decisions of

<sup>1</sup> I. I. P. A., *Newsletter*, October 1974.

these agencies in the following cases : (i) where tribunal has acted without jurisdiction or has acted in excess of its power, (ii) where although it has acted within its jurisdiction but against any rule of natural justice, (iii) where provisions of the Act have not been complied with, or (iv) where the proceedings of a tribunal are initiated by fraud, dishonesty or caprice on the part of tribunal itself.

Article 32 (2) of the Constitution empowers the Supreme Court to issue the prerogative writs of Habeas Corpus, Mandamus, Prohibition, Quo warranto and Certiorari. Any person affected by the decisions of a tribunal may pray for any of these writs in order to secure his fundamental rights. Further, under Article 227, the High Courts have been given a power of superintendence over all the courts and tribunals falling under the territories over which they have jurisdiction and finally, under Article 136 (3) the Supreme Court has a right of granting special leave to appeal from any judgment, decree, or order in any cause or matter passed or made by any court or tribunal in the territory of India.

But the judicial control over administrative action may sometimes be negated by the legislature through its own enactment, in the following two important ways : (i) By including a 'Private Clause' in the act making the decision of an administrative officer or an administrative tribunal final and not subject to appeal to a court. (ii) By giving discretion to the Government or a designated administrative officer. Generally, it has been held that if unlimited administrative discretion has been given, and there is no standard or clear enunciation of the object controlling the exercise of their discretion, such discretion is ultra vires of the Constitution (*State of West Bengal v. Anwar Ali Sarkar*—A. I. R., 1952 S. C. 75). The Supreme Court has, however, in subsequent cases upheld wide discretionary authority to responsible administrative officer.

Lest the administrative tribunals should abuse their powers, it is very important that the judiciary of the country exercises an adequate control over their working. But at the same time, it is important that their independence and flexibility are not compromised by excessive control either by the administrative or judicial authorities. In Indian context one point of criticism should be carefully noted. It is that many a time the tribunals are composed of people who do not have the impartial outlook and an attitude of detachment that the judicial officers need to have; and secondly, that the administrative tribunals are not manned by persons having some judicial training and experience which are necessary to equip them for reviewing administrative actions. The criticism is valid to a certain extent. Hence the authorities have to be vigilant enough to see that the tribunals are so constituted as to meet the needs of sound principles of administrative justice.<sup>1</sup>

<sup>1</sup> R. B. Jain, *op. cit.*, 354-58.

However, some of the Acts provide for review by the Government. For example, the Indian Cotton Cess Act, 1923 provides that an assessment of tax made by the Collector appointed by the Government shall not be questioned in any court of law. But it allows any owner of a mill, who is aggrieved by an assessment to appeal to the Central Government for the cancellation or modification of the assessment or refund of any amount paid under it. Similarly, the Foreign Exchange Regulations (Amendment) Act, 1957 empowers the Director of Enforcement of Foreign Exchange Regulations appointed by the Central Government to adjudge whether a person has committed contravention of regulations and to impose penalties. A reasonable opportunity of being heard is provided.

Another significant area of administrative law where the courts' activism is clearly discernible relates to the right of a person to appear through a counsel or a lawyer before a quasi-judicial body. The Supreme Court's approach to this problem is reflected in a recent decision in *C. L. Subramaniam V. Collector of Customs, Cochin*. This was an appeal against the removal of the petitioner, who was a Preventive Officer, Grade II, in the Customs Office, Cochin. The petitioner had challenged the enquiry proceedings on the ground that in his case the government side was represented by a seasoned lawyer while he was refused permission by the government to appear through a legal practitioner. The Supreme Court held that denial of an opportunity to the petitioner to appear through a lawyer when the government (respondent) themselves were represented by a trained lawyer vitiated the enquiry and the removal of the petitioner was, therefore, illegal. Thus it is quite desirable that where the person, property or reputation of an individual is affected he must be given permission to appear before a quasi-judicial body through a counsel or a lawyer of his choice.

The courts exercise control over arbitrary discretion of administrative bodies, by insisting that while initiating action against an individual the administrative authority must have 'reason to believe' that there is some material or fact against that individual on which such belief is founded. The words 'reason to believe' suggest that belief must be of an honest and reasonable man based on material or facts available against the individual proceeded against. That is to say, the action should be founded on reasonable grounds and 'not on mere suspicion, gossip or rumour.' The Supreme Court in *Sheonath Singh V. The Appellate Assistant Commissioner of Income Tax (Central), Calcutta & others*, set aside the order of the Income Tax Commissioner on the ground that the income tax authority had no material before them constituting 'reason to believe' that the assessee had evaded any tax on his gains and profits. Allowing the appeal the Supreme Court observed that the

□ *Public Administration in India*/34

Income Tax Department in this case had neither any direct nor circumstantial evidence to proceed against the petitioner but had acted on mere suspicion and this vitiated the proceedings.

The most notable development in the recent time is the tendency on the part of the courts to release the detenues detained under the Defence of India Rules or the Maintenance of Internal Security Act. The courts' liberal approach to the problem of detenues has exploded the fallacy that the administration possesses unqualified discretion to detain persons under the said act. In cases involving Preventive Detention, the courts' insistence is that the administrative authority must have 'applied its mind' before passing a detention order. This, in other words, means 'that the court will quash the detention order if it was a 'casual order' and indicates that there was no careful thinking or proper application of mind as to the necessity of doing so. Thus the courts, through the process of interpretation have tried to control the exercise of power of the administration which is expressed in almost unqualified terms.

But the enactment of Commissions of Enquiries Act, 1952, the establishment of the Administrative Reforms Commission in 1965 and the proposal for the institution of Lokpal and Lokayuktas are no doubt some of the concrete measures in the direction of reforming the administrative law. Still much yet remains to be done in view of the maladministration prevailing in the country. The needs of administrative justice demand that there should be complete overhauling of the Indian administrative law so that the rights of private parties are properly protected. The much delayed institution of Lokpal should be introduced forthwith to supervise and investigate actions of the administrative officials and the acts of quasi-judicial authorities. India today needs a comprehensive legislation on administrative law along the lines of Code of Administrative Procedure in the United States which could prescribe rules of conduct for administrative authorities and quasi-judicial bodies.<sup>1</sup>

The number of specialised tribunals in Britain continued to grow until a committee was appointed in 1955 to suggest, among other things, ways by which the State, in the execution of its policies, could maintain 'a balance between the public interest which it promotes and the private interest which it disturbs.' The Committee made a number of suggestions most of which were implemented soon afterwards. But no serious effort has been made in this country, however, to deal with the problem. The number of Indian statutes setting up administrative authorities with quasi-judicial powers has been growing rapidly. These laws apply to a large area of governmental actions relating to land, taxation and revenue, labour and so on. Many of them affect important private rights and impose

<sup>1</sup> See N. V. Paranjpe's 'Administrative Adjudication in India,' *J.C.P.S.*, April-June 1974, 197-203,

onerous obligations. As the Law Commission has pointed out, some of these laws provide no right of appeal even to higher administrative authorities, others confer a right of appeal only to a higher administrative but not judicial authority and some even bar the appearance of lawyers before an administrative authority. A parliamentary committee has rightly expressed concern over the increase in the number of these tribunals and has suggested that the whole problem of the functioning of these bodies, of standardization of their procedures and of the creation of suitable channels of appeal and judicial review should be referred to a large committee with which administrators and jurists should be associated.



## CHAPTER XIX

# OTHER ASPECTS OF ADMINISTRATION

### I. ORGANISATION FOR GOVERNMENT SUPPLIES

Men, money and material are the three essential requisites of administration. We have already considered the problems of personnel and finance ; we, therefore, propose to discuss here very briefly some important aspects of material. All government departments and offices require various kinds of material and in some cases in very large quantities. To take only one example, every government office consumes tons of paper, pencils and other articles of stationery. If the supply function is not properly performed, it can wreck the efficiency of almost any kind of administrative programme.<sup>1</sup> The term 'material' is very wide in its connotation. It may be classified into (1) Plant, (2) Equipment, (3) Material (in a special sense), and (4) Supplies.

The problems of material (or supplies) may be resolved into these distinct elements : (1) The determination of requirement needs ; (2) Procurement ; (3) Storage, issue and use ; and (4) Organisation and procedure. In the determination of requirements standards and specifications are very useful. Problem of procurement involves a number of operations, namely : (i) selection of the vendor or supplier; (ii) agreement upon the purchase price of fixing rates of articles needed; (iii) time and place of delivery; and (iv) verification of deliveries or inspection, etc. The procurement agency should keep in touch with the market conditions. Further, a government purchasing agency should lay down rules, etc., for the registration of suppliers, so that all qualified and respectable dealers get an equal opportunity to supply the required goods.

Storage, issue, and use taken together are known as warehousing or simply storing. Articles purchased should be stored in such a way that they are well protected against weather ; fire and other damages. Issue of articles required should be done only in accordance with the prescribed procedure. It may be added that all articles should be used in a proper way, avoiding all misuse, or waste. Thus the various departments should make good provision for storage facilities and the storekeepers should be given sufficient training in their work.

<sup>1</sup> Dimock and Dimock, *Public Administration*, 218.

For any large department or service of magnitude, a separate organisation for procurement of supplies is very necessary. Such an organisation should consist of several units, viz. : (i) operating division or sub-division for determining its supply needs, making those needs known and putting the supplies to proper and economical use, (ii) office of general administration, which should receive all the requisitions for supplies from the various operating units, (iii) a procurement service for making the necessary purchases, (iv) a supply division, which should be in a position to maintain supplies to all the operating units in accordance with their approved requisitions, etc., and (v) accounting and disbursing office for maintaining all accounts and making payments to suppliers.

The procurement and handling of materials in a very large organisation offer opportunities for extravagance, waste and inefficiency. Hence there is the need for a central supply agency. (1) It leads to economy resulting from (a) reduction in administrative cost by lowering both overhead and unit costs ; (b) reduction of the volume of paper work ; (c) the purchase of articles in large quantities ; and (d) the reduction in the quantities of articles that must be carried in the stores. (2) It permits the adoption of standard specifications for most of the articles needed. (3) It secures centralised supervision over inspection of deliveries, storage and distribution of stocks, departmental transfers and sales of surplus stocks. It also helps in maintaining better control over expenditures. (4) It ensures greater efficiency resulting from the application of the general principle that work of a definite and technical character can be more efficiently done by a single adequately equipped and staffed agency than by a number of agencies.

In India, a separate Public Works Department was created as early as 1855. After a course of chequered history it was organised as the Department of Works, Mines and Power in 1946. In 1951, the subjects 'Mines and Power' were transferred to another Ministry ; but it took over the subjects 'Production' and 'Supply' from the late Ministry of Industries and Supply. The Ministry was bifurcated into two Ministries, viz., the Ministry of Production and the Ministry of Works, Housing and Supply. At present the latter Ministry is responsible for (a) Public Works, (b) Housing, (c) Accommodation, (d) Purchase and Disposal of Government Stores, (e) Printing of Stationery, and (f) Explosives and Boilers.

Here we are concerned only with one function of the Ministry namely, purchase and disposal of government stores. The Ministry provides organised facilities for large-scale procurement and supply of stores of indigenous and foreign manufacture to the various Departments under the Union Government. It is also responsible for proper disposal and utilisation of their surpluses. The Director General of Supplies and Disposals is the executive agency

for this work. It has its own special arrangements for testing samples and inspecting stores before supply. Most of the stores of foreign manufacturers are procured through two overseas organisations, namely, the Directorate General, India Store Department, UK; and the India Supply Mission, USA.

The Director General of Supplies and Disposals is the Central Purchasing Organisation of the Government of India. The Organisation buys the large requirements of all Ministries and Departments of the Union Government. Its services are also utilized by the State Governments, Government Undertakings and quasi-Government Organisations. Its main functions include : (1) to act as the central purchasing and inspection agency and also in an advisory capacity on all matters connected with the purchase of stores ; (2) to scrutinise indents before cross-mandating for purchase to overseas purchase authorities ; (3) to inspect stores purchased directly by Government Departments which are permitted to do so ; (4) to carry out the necessary laboratory tests, analysis, etc. ; (5) to draw up specifications of the various classes of stores in demand ; (6) to arrange clearance of stores imported from abroad ; and (7) to arrange disposal of surplus.

The Organisation is divided into six wings :

(1) *Supplies Wing*. It consists of 5 Purchasing Directorates at the head-quarters and the Regional Supply Organisations at Calcutta, Bombay and Madras.

(2) *Inspection Wing*. At Headquarters it consists of : (a) Inspection Section, (b) Specification Section, (c) Drawing Office, and (d) Sample Room. The Regional Inspectors' Organisation consists of Inspection Circles located at various industrial areas.

(3) *Progress Wing*. It is responsible for ensuring that supplies are completed within the periods specified in the contract, and to bring to the notice of the Supplies Wing all cases of delay, etc.,

(4) *Disposal Wing*. It consists of two Commodities Directorates and the work in the regions is looked after by the Directorates at Calcutta, Bombay and Madras.

(5) *Administration Wing*. It is under the charge of a Director of Administration and deals with all matters relating to administration and personnel.

(6) *Co-ordination Statistics Wing*. It is under the charge of a Director and has to deal with (a) purchase procedure and policy, (b) disposal procedure and policy, (c) statistics, (d) promotion of Government purchase from cottage industries, and (e) co-ordination of litigation work, etc.

State Governments have their own organisations for procurement and supply of stores to the various departments and agencies of this government. Each State Government also lays down general principles in this connection. For example, the Government of

Maharashtra appointed a committee in 1964 to study the various aspects of stores purchase procedures with a view to encouraging purchase of stores from small-scale industries. The committee considered whether certain items could be exclusively reserved for being purchased from small-scale industries and also suggested standardisation of specification of stores where possible. The Government of Madhya Pradesh constituted a Department Store Purchase Committee in 1964, with Secretary to Government, Agricultural Department, as its chairman. The Committee has to deal with the purchase of all the stores required for the State Agriculture Department, and its function is to approve the quality, price and source of supply of any material to be purchased through it.

## II. HEADQUARTERS AND FIELD RELATIONSHIP

People generally regard the capitals of the nation and the States as the places where the business of government is carried on. There is no doubt that much of the important business is carried on in the capitals, which are the headquarters of the national and State Governments. But most of the business is actually carried on in the countless field offices under the various departments of the national and state governments at the regional, state, divisional, district and lower levels. For it is in the field that taxes are collected, regulatory laws enforced, and governmental services rendered. In other words, effective administration is carried on in the field. Field administration presents its distinctive problems for which solutions must be sought.

A majority of the operating departments or agencies of the Union and State Governments have a large number of field stations at the regional, district and local levels for performing most of their operations under the general direction and control of their respective Headquarters' Organisations. The various activities carried on by these field stations for their organisations constitute what may be termed as 'field service'. Field services are required not only by the Union or State Governments, but also by several other organisations, e.g., Life Insurance Corporation.

The field offices may be brought into existence either by a legislative enactment or by an administrative order. In order to avoid rigidity and permit latitude for the proper exercise of discretion by the administrative officers, it is preferable that the determination of number, location and grade of field stations is left to the administrative departments or agencies concerned. It is highly desirable that the field offices should be classified and graded, so that allotment of funds and staff and other matters of practical administration may be put on a systematic basis. Another very great advantage of classified field stations under a unified system is that employees may easily be transferred from the one to the other. From the adminis-

trative point of view it is of great advantage that wherever possible sub-stations are created under field stations. The line of authority in such a case runs from sub-stations to the station concerned instead of running directly from the station to the Headquarters.

'When an agency's programme is projected into the field there arise two basic alternatives. Each division may be allowed to set up its own field service and directly control the performance of division's functions in the field. On the other hand, the whole agency may organise an integrated field service, with each regional, state and district director held responsible for all agency functions performed in the assigned territory.<sup>1</sup> Where the various services in the field are under a single officer, we have the unitary (or integrated) type organisation. In such a system the various departments of the government or divisions of the department deal with the several services under the field station through that official only. In France the various services in the field of a Department (Province) are under the Prefect and the various departments of the Central Government deal with them through that officer. Under the multiple system the various departments or divisions of a department at the headquarters deal directly with corresponding services or functional units under the field station.

According to Luther Gullick, there are three patterns of field organization, called (1) 'All Fingers'; (2) 'Short Arms Long Fingers'; and (3) 'Long Arms, Short Fingers'.<sup>2</sup> Under the first pattern the headquarters office deals directly with the field stations without the intervention of any regional sub-divisions anywhere. In the second pattern there are geographical divisions, but they are located in the headquarters office itself and not in the field, for example, External Affairs Ministry in India. It has less than hundred sections—administrative, territorial and technical. These are grouped into a dozen divisions, such as American Division, Western Division, Eastern Division, Southern Division, African Division, Protocol Division Administration Division, External Publicity Division, etc. Under the third pattern, there are geographical divisions and sub-divisions, which are located in the field away from the headquarters, for example, divisional and district offices in the States of India.

#### ORGANISATION OF FIELD OFFICES IN INDIA

Where the implementation of the policies of the Union Government requires decentralisation of executive direction and the establishment of field agencies for purposes of regulation, control or execution, a Ministry has under it subsidiary field organizations which are called Attached and Subordinate Offices. The Attached Offices are responsible for providing executive direction required in

<sup>1</sup> M. Marx (ed.), *Elements of Public Administration*, 276-77.

<sup>2</sup> Gullick and Urwick, *Science of Organisation*, 28-29.

the implementation of the policies laid down by the Ministry to which they are attached. They also serve as repository of technical information and advice to the Ministry on technical aspects of questions dealt with by them. The Subordinate Offices function as field establishments or as agencies responsible for the detailed execution of the decisions of Government. They generally function under the direction of an Attached Office, or in cases where the volume of executive direction involved is not considerable, directly under a Ministry. A brief account of some of the attached as well as subordinate offices under the Principal Ministries of the Union Government is given below :

*External Affairs Ministry.* There are no attached offices under the Ministry, and its main subordinate offices include : (i) Immigration establishments, (ii) North East Frontier Agency, (iii) Naga Hills—Tuesnang Area, and (iv) Office of the Inspector-General, Assam Rifles.

*Ministry of Defence.* Under the Ministry, besides Central Secretariat Organisation, there are the Army Headquarters, Naval Headquarters and the Air Headquarters. The organisation of the Indian Air Force below the Air Headquarters level consists of (i) Operational Command, (ii) Training Command, (iii) Maintenance Command, and (iv) Units directly under Air Headquarter.

*Ministry of Finance.* The important Attached Offices of the Ministry are : (i) Office of the National Savings Commissioner, (ii) Indian Security Press, (iii) Government of India Mints, (iv) Silver Refinery Project, Calcutta, and (v) Directorate of Inspection. The subordinate offices of the Ministry include : (i) Office of the Regional Director of Companies, (ii) Offices of the Registrars of Companies at a number of places, (iii) Collectors of Customs at important ports, (iv) Collectors of Central Excise, (v) Income Tax Department, etc.

*Ministry of Home Affairs.* Among its important attached offices we may include : (i) Union Public Service Commission, (ii) Indian Administrative Training School, and (iii) Commissioner for Scheduled Castes and Scheduled Tribes. Subordinate Offices under the Ministry are : (i) Directorate of Coordination, (ii) Secretariat Training School, (iii) Central Police Training School, etc.

*Food and Agriculture Ministry.* The subordinate offices under the Department of Food are the seven offices of the Regional Directors of Food at Bombay, Calcutta, Madras, Delhi, Gauhati, etc.

*Ministry of Transport and Communication.* Besides the main subordinate offices, viz., Meteorological Department, Railway Inspectorate, etc., the Department of Posts and Telegraphs has a network of posts and telegraph offices spread throughout the length and breadth of the country. These may be classified into : (a) Regional offices, (b) Head offices in big cities, (c) Branch offices, and (d) Sub-branch offices.

In the States, above the district offices there are field offices at the divisional or regional level under the various departments, such as police, education, health, cooperative societies, etc. In the same way, below the field offices at the district level there are offices at the tehsil, sub-division, block or area levels. However, the more important field offices are at the district level and among them all the most important is that of the district collector or deputy commissioner. In India, the position of the collector has, in effect, combined features of the prefect system with the federal structure of Indian Government. The combination has been facilitated by the existence of all-India services. Public officials of the State executive stationed in the area belong to separate functional hierarchies entrusted with different aspects of government policy. There is no single general representative of the government in the field; but the district officer system makes for and emphasises the concentration of government powers in the regional representative making him the coordinator and supervisor in the field and the main channel of communication between technical field officials and headquarters.

### III. BUREAU/BOARD/COMMISSION TYPE ORGANISATION

In an organisation the responsibility may be located either in a single individual or a body of individuals. In the former case, the organisation is known as a 'bureau' and in the latter case the organisation may be a 'board' or commission. A bureau is the principal internal unit of the department. Its head is responsible to and works under the direction of the head of the organisation. A bureau has a homogeneous structure, built to perform a single task or a series of closely related tasks. It is the essential working unit of administration, and the department is a coordinating device.<sup>1</sup> The well-known examples of bureaus are those of—Bureau of Information, Bureau of the Budget in USA with a director at its head, and the Central Bureau of Investigation (CBI) and the University Employment Bureau in India.

Some examples of Boards and Commissions in India are—Revenue Board, Coffee Board, Railway Board, Planning Commission, Public Service Commission, Election Commission. One feature common to all these type of organisation is that they are not concerned with general administration, but with direct performance of the work. The nature of work performed by these services differs, although certain observations may be made with regard to the work for which they are best suited. A bureau is most suited for the performance of functions mainly of the administrative type, because when there is a definite location of power and responsibility, the

<sup>1</sup> L. D. White, *Introduction to the Study of Public Administration*, 97.

work is done better. It is recognised that bureau type organisation is better suited for those services which demand quick decisions and immediate action. Further, the single head is necessary in those activities which require discipline of a semi-military type. In this group may be included police and fire services, prison administration, highway patrol, etc. But board or commission type of organisation is preferred where the function consists in exercising discretion on a large scale, the formulation of policy and drafting of rules and regulations having the force of law and affecting private rights : because in such cases the judgment of a number of persons is likely to be superior to that of a single individual.

According to Willoughby the kinds of services for which a board or commission is particularly desirable and useful are : (1) Those services which are of a quasi-judicial and quasi-legislative character, e.g., public utility corporations, which perform two principal functions : (a) quasi-legislative—formulation of rules and regulations for determining the rates and conditions of services ; (b) quasi-judicial—decisions or judgments on issues affecting public and private rights arising under such rules and regulations ; (2) Those services whose duties call for the exercise of wide discretionary powers or are of a general control character, for example, Public Service Commission ; (3) For organisations in which it is desirable to have a number of different interests represented, for example, conciliation board for the adjustment of labour disputes, as it can include among its members representatives of labour, employers, and the general public. Examples of this type in India are those of the Railway Board, Election Commission, and Public Service Commission ; (4) In those cases where attempt is made to eliminate or to reduce to a minimum the factor of party politics in the conduct of its operations, for example, Tariff Commission.

But there are a number of branches of administration, whose duties fall in both fields—administrative and quasi-legislative or quasi-judicial. In such cases it is better to combine both types of organisations, that is, for administrative work there may be a single officer or director and for other work a board. For example, in a municipality there may be a superintendent of education for administrative work and a board for determining policy and programme. However, as regards the relative jurisdiction of the two there may be two alternatives : (1) to make both the offices independent and co-ordinate ; and (2) to vest all authority in the board and make the administrative officer its executive secretary. In any case the powers of both should be clearly defined.

A board is a body of members who are required to act collectively. A 'Commission' is also a body of members, but they have two capacities. *First*, the members act collectively like those of a board ; and *Secondly*, each member also acts individually as head of



a distinct branch of the organisation. The common examples are those of a Municipal Board, and Commission type organisation of a local body in USA. According to Graves the term 'Commission' seems to be used when the body is charged with important regulatory duties relating to public utility enterprises. Where the duties are primarily administrative or where, if regulatory in character, they relate to matters other than public utilities, the 'board' is in general use. According to Pfiffner the administrative board is the departmental head for an organisation unit of a government. It is so called because all of the powers to administer reside with it, even though substantial authority may have been delegated to a chief administrative officer.

#### INDEPENDENT REGULATORY COMMISSIONS

They are endowed by the constitution or statutes with authority to regulate private property and persons in the interest of general well-being, and are given quasi-legislative and/or quasi-judicial functions. The legislatures instead of clearly defining the norms of conduct to govern economic or social life, may pass laws requiring that rail-road and power rates be 'just and reasonable', that restaurants and dairies be 'sanitary' and that employers provide 'reasonable protection to the lives, health and safety' of their employees. These discretionary functions may be performed by regulatory commissions. Familiar examples of such organisations in USA are—the Inter-State Commerce Commission, the Federal Trade Commission, the Federal Communications Commission, Public Utility Commissions and Industrial Accident Boards. These bodies have been set up by the Congress from time to time; and their number is the largest in that country.

Such organisations are a peculiar feature of the American administration, because on account of the separation of powers theory, Congress prefers to create independent establishments under its authority. In countries with parliamentary constitutions, the examples of such bodies are few; because there the legislatures do not fear that the executive would turn dictatorial. Two examples of such organisations in UK are the General Medical Council and the Law Society. In India also there is the All-India Medical Council. It may be noted that the Public Service Commission, the Election Commission, the University Grants Commission, etc., have been created in India under the authority of the Constitution or Parliamentary statutes; and they are autonomous bodies, but different from the independent regulatory commissions, because they are not independent of executive control in matters of their policy and personnel.

The Government of India set up the Central Bureau of Investigation (CBI) in 1963 to collect intelligence relating to commercial firms so as to suggest preventive action. Big cases of fraud, cheating,

embezzlement, etc. about public joint stock companies also fall within the ambit of the Bureau's investigation. In short, the Bureau inquires into cases to which public servants under the control of the Central Government are involved either by themselves or along with State Government servants or other persons. The Bureau also collects intelligence relating to corruption in Central Government departments and public sector undertakings. The work of the Ministry of Education (Government of India) was reorganised with effect from 9 April 1964, into five bureaus as follows : (i) The Bureau of School Education ; (ii) The Bureau of Higher Education ; (iii) The Bureau of Scholarships ; (iv) The Bureau of Planning and Ancillary Educational Services ; and (v) The Bureau of Languages, Literature and Fine Arts. The Union Ministry of Finance set up the Bureau of Public Enterprises in 1965. It is headed by a Director General of the rank of Special Secretary to the Government of India. The Bureau acts as a high-level co-ordination and evaluation agency. It deals with the whole range of management and operations of the public undertakings, so as to augment profits, improve efficiency and effect economies.<sup>1</sup>

There is a Board of Revenue in most of the States. Usually it hears appeals from the judgments of the Commissioners in cases relating to land and revenue. To take an example, the Government of Assam constituted a Board of Revenue in 1960 under the Assam Board of Revenue Act, 1959. The Board consists of 2 members, one of whom acts as its Chairman. But in hearing appeals or in cases of review, the Board co-opts, according to the nature of the cases, an additional member from amongst officers of the Department administering the enactment relating to the case. The duties and functions of the Board are : (i) to entertain appeals and revise decisions in revenue cases arising under the provisions of the enactments relating to land, revenue, local rates, forests, agricultural income-tax, etc. ; (ii) to perform certain functions of administrative and superintending nature ; (iii) to superintend the revenues of the State of Assam from whatever source they may arise. The constitution and functions of some State planning boards have been given in Chapter 16.

Several States have Electricity Boards. In addition to them the Government of India has decided to set up Seven Regional Electricity Boards. One such board was set up before 1963 for the Southern region and a board for the Northern region was set up in 1963 by the Governments of Jammu-Kashmir, Himachal Pradesh, Punjab, Delhi and Rajasthan, with headquarters in Delhi. The functions of the Northern Regional Electricity Board include :

<sup>1</sup> The Constitution and functions of Press Information Bureau and the Bureau of Public Enterprises have been given in Chapters 20 and 17 respectively.

(i) reviewing the progress of power development schemes in the region, (ii) planning and ensuring integrated operation of the electricity systems in the region, (iii) preparation of a co-ordinated overhaul and maintenance programme for the generating plants in the region, (iv) determining the quanta of power available for exchange from time to time between the States, (v) determining a suitable tariff structure to govern exchange of power within the region, (vi) determining the generation schedules to be followed by the constituent systems, and (vii) consideration of any other relevant matter for appropriate action thereon.

Under a scheme drawn up by the Union Government in 1970, each of the 14 nationalised banks has a board of directors comprising a maximum of 15 members, all to be nominated. Two of these are full-time directors—including the managing director who has also been designated as the chief executive officer. The Government of Madhya Pradesh set up a 16-member Land Reforms Board, headed by the Chief Minister, to study the progress in the implementation of various measures for land reforms in the state.

There is a provision for the creation of several commissions in the Constitution of India. The Union and State Governments are required to set up Public Service Commissions, which are statutory and permanent bodies. The Election Commission for the whole country is also of the same type. The Constitution also provides for the establishment of Backward Classes Commission, the Language Commission, and the Finance Commission from time to time. The Government of India had set up a high-powered commission—the States Reorganisation Commission—which submitted its report in 1955, on the basis of which the States were reorganised in the year 1956. The Union and State Governments have been constituting from time to time pay commissions for their employees, education commissions to investigate and report on problems of university and secondary education, police commissions and so on. The Union Government set up a University Grants Commission under the University Grants Commission Act, 1956.

The Standing Labour Committee recommended (in July 1970) constitution of Industrial Relations Commission both at the Centre and in the States. The Commission will consist of a judicial officer as chairman and two non-judicial members well-versed in problems relating to industry, labour and management. The Industrial Relations Commissions will be high-power bodies, independent of the executive. They will have three main functions : (a) adjudication of industrial disputes, (b) conciliation, and (c) certification of unions as representative unions. The National Industrial Relations Commission is to be appointed by the Central Government for industries for which that Government is the appropriate Government; it will deal with disputes involving questions of national importance

or those likely to affect industrial establishments situated in more than one State. There will also be an Industrial Relations Commission in each State for settlement of disputes for which the State Government is the appropriate authority.

#### IV. COMMISSIONS OF INQUIRY

##### MAJOR INQUIRY COMMISSIONS SET UP BEFORE 1977

Messers Serajuddin & Co., a firm of mine owners in Orissa, was raided in 1956 by the Central Intelligence, investigating into charges of evasion of income tax and customs duty. In 1963, reports appeared in the press that the firm was financing 'influential people'. Later, K. D. Malaviya, then Union Minister for Mines and Fuel, reportedly admitted obtaining Rs. 10,000 for a fellow Congress member.

S. N. Dwivedy, MP, queried him over the issue of a licence to Serajuddin to bring in machinery for ONGC which was under the Minister's jurisdiction. Prime Minister Nehru referred all the papers to C. K. Daphtary, Attorney-General, who advised a full inquiry. But Nehru opted for a 'quasi-judicial' inquiry by Justice S. K. Das of the Supreme Court. Malaviya resigned after the Judge submitted his report.

In 1963, S. R. Das, former Chief Justice of India, held an inquiry into allegations against the then Chief Minister of Punjab, Sardar Partap Singh Kairon. As early as 1958, the Congress had instituted an inquiry and held Kairon's family members responsible for 'improprieties'. The Das Report found him guilty of abusing his 'influence and power' and helping his 'sons and relatives to acquire properties' and secure undue favours. Kairon refused to quit, but Prime Minister Lal Bahadur Shastri published the findings and forced him to resign.

N. R. Ayyangar, a former Judge of the Supreme Court, found Bakshi Ghulam Mohammed, Chief Minister of Jammu and Kashmir, guilty of 'gross misconduct'. The Commission held that the amount of improper benefits or undue financial advantage obtained by the Bakshi and the members of his family totalled over Rs. 54 lakhs. Bakshi had become Chief Minister in 1953 and resigned under the Kamaraj Plan after ten years in office. The Commission was set up in 1965.

Biju Patnaik, as also his Deputy, Biren Mitra, who succeeded him as Chief Minister of Orissa, earned the strictures of Justice H. R. Khanna, who headed the Commission of Inquiry (1967). They were found guilty of 'improprieties and abuse of power'. The concerns with which their family members were associated had received official patronage.

Justice J. R. Mudholkar inquired into charges against the then

Chief Minister, M. Prasad Sinha, and 13 Ministers of the United Front Government which ruled Bihar from April 1967 to January 1968. The other Commission set up by the UF Government was headed by Justice T. L. Venkatarama Aiyar to go into charges against six former Congress Ministers.

The Mudholkar Commission criticised the Chief Minister for sacrificing 'public interest on the altar of political expediency' in appointing the late Raja of Ramgarh, a big mine owner, as Minister for Mines and Geology.

The Venkatarama Aiyar Commission brought to light a scandalous state of affairs. It found that one of the Ministers, Mahesh Prasad Sinha, had received bribes totalling Rs. 1,75,000 from contractors. K. B. Sahay, former Bihar Chief Minister, was found to have investments exceeding his income.

The former DMK Chief Minister of Tamil Nadu, M. Karunanidhi, and his colleague, the then Agriculture Minister Anbil Dharmalingam, 'misused' their official position and received Rs. 5.75 lakhs from aircraft operators as 'illegal gratification' for awarding contracts during 1970-72. This charge was confirmed by a Commission under Justice R. S. Sarkaria, which was appointed in February 1976, soon after the dismissal of the DMK Ministry, to inquire into 28 allegations of corruption and misuse of power. The report of the Commission was placed before the Rajya Sabha in March 1977.<sup>1</sup>

#### COMMISSIONS OF INQUIRY AFTER 1977

During the campaign for elections to the Lok Sabha in March 1977, there was a general demand that the excesses committed by the Congress Governments (at the Centre as well as in the States) during the emergency should be inquired into by the new Government. The manifesto of the Congress For Democracy (CFD), which after the election merged with the Janata Party, said: 'We shall set up judicial inquiry into all administrative excesses during emergency ...'. The manifesto of Janata Party itself did not include any such assurance, but the leaders of the Party, emphasised this point in their election speeches.

In view of the above and the large number of complaints regarding excesses committed during the period of emergency and in pursuance of the Union Home Minister's announcement in Parliament on 7 April 1977 regarding an inquiry into these excesses, the Union Government set up a single number Commission under the Commissions of Enquiry Act 1952 for this purpose. The Commission of Enquiry is headed by the former Chief Justice of India, Justice J. C. Shah. The terms of reference of the Commission

<sup>1</sup> B. Costa in *Illustrated Weekly of India*, 24 July 1977.

approved by the Government are as follows :

(a) to inquire into the facts and circumstances relating to specific instances of : (i) subversion of lawful processes and well-established administrative procedures and practices, misuse of authority, excesses and/or malpractice committed during the period when the proclamation of emergency made on 25 June 1975 under Article 352 of the Constitution was in force or in the days immediately preceding the said proclamation; (ii) misuse of powers of arrests or issue of detention orders where such arrests or orders are alleged to have been made on considerations not germane to the purposes of the relevant Acts during the aforesaid period.

(b) To consider such other matters which, in the opinion of the Commission, have any relevance to the aforesaid allegations; and

(c) To recommend measures which may be adopted for preventing the recurrence of such abuse of authority, excesses and malpractices.

The object, as explained by R. P. Rajagopal, Secretary of the Shah Commission, is to ensure a 'review of the cases of individuals concerned so that miscarriage of justice, if any, is corrected, aggrieved parties are adequately recompensed and suitable action is taken against the guilty.' The headquarters of the Commission Chairman received thousands of letters every day for over a month. Those letters which suggested injustice against an individual but were not of public importance were forwarded to the appropriate State or Central Ministry, as the case might be for necessary action.

Other letters were categorized as follows : (i) subversion of lawful processes and administrative processes immediately before the emergency; (ii) misuse of powers of arrest or detention; (iii) excesses, atrocities and specific instances of maltreatment; (iv) use of force and specific instances of compulsion for family planning programme; and (v) unauthorised, indiscriminate and high-handed demolition of houses, shops, buildings and so on.

For each of the above categories, there is a separate team to process the complaints. If the Commission wants any further inquiry, it will do so through its own machinery. There is a separate team for this purpose in every State, with a Superintendent of Police as its head. The Commission will also have the benefit of using the material that some fact-finding committees are gathering, for example, the Jain Committee on Turkman Gate, which is collecting facts on the incident and will submit its report to the Shah Commission. Another One-man Committee, headed by K. K. Das, the former Secretary to the Ministry of Information and Broadcasting, has already submitted its report to the Government on the misuse of the mass media.

The Shah Commission of Inquiry has framed its regulations for the transaction of its business. The salient features of these regulations are :

The Commission may require persons who have complaints to make or have knowledge of facts relevant to matters under inquiry to file statements of facts or affidavits duly sworn before legally empowered authorities. These statements of facts or affidavits should indicate the source from which the information has been derived and if such source is in the shape of official documents, the persons or departments which have custody or control of the same. When affidavits are filed, seven spare copies should also be filed.

If a deponent wishes to bring more than one matter to the notice of the commission, he should file separate affidavits or statements of facts in respect of each category of complaints. If more than one affidavit or statement of the fact has been filed the total number of affidavits or statements of facts and the serial number of each should be indicated.<sup>1</sup>

Here brief mention may also be made of three other Commissions, set up by the Union Government. *First*, one-man Commission on Maruti concerns, which has to look into the Maruti small car project, how it came to be established, who were the people to finance it and why, which departments helped to secure land, finances and other gains. Justice A. C. Gupta headed the Commission.

Another one-man Commission, headed by Justice, Jaga Mohan Reddy, retired Judge of the Supreme Court, has to inquire into the chain of events connected with the withdrawal of Rs. 60 lakhs from the State Bank of India by R. S. Nagarwala, the subsequent proceedings against him and his death. The Commission has been asked to go into the death of investigating officer, who was reported to have died in a road accident. Justice Reddy has also been asked to go into allegations of corruption, favouritism and nepotism against former Defence Minister, Bansi Lal.

*Third*, again a one-man Commission, headed by Justice A. N. Grover, retired Judge of the Supreme Court, was set up on 23 May 1977, to inquire into the following allegations against Dev Raj Urs, Chief Minister of Karnataka :

1. Such of the allegations contained in the memorandum dated 11 April 1977 received from some Members of the Karnataka State Legislature and addressed to the Prime Minister as are specified in Annexure I;

2. (a) Such of the allegations contained in the memorandum aforesaid as are specified in Annexure II, but excluding any matter

<sup>1</sup> *Times of India*, 13 August 1977.

covered by the notification of the Government of Karnataka in the Chief Secretariat No. DPAR 7 Gam 77 dated the 18th May 1977.

(b) To inquire into any irregularity, impropriety or contravention of law other than those specified in the said notification of the Government of the State of Karnataka, on the part of any person in relation to any matter referred to in the allegations aforesaid; and

(c) To inquire into any other matter which arises from, or is connected with or incidental to, any act, omission or transaction referred to in the allegations aforesaid.

The above Commission published a notification in the newspapers on 5 August 1977.

In pursuance of clause (b) of sub-rule (2) of rule 5 of the Commissions of Inquiry (Central) Rules, 1972, the Commission so appointed hereby invites from individuals, companies, corporations, societies and similar other persons acquainted with the subject-matter of the inquiry, to furnish to the Commission a statement of facts relating to the matters specified in the Central Government notification, and every such statement of facts shall comply with the following requirements namely :

(a) Every statement of facts submitted to the Commission shall be supported by an affidavit and shall set out therein each item of corruption, nepotism, favouritism or misuse of Governmental power alleged to have been committed by the Chief Minister or any other Minister (or former Minister) of the State of Karnataka, named in the Central Government notification, and the evidence by which the deponent proposes to establish such statement of facts ;

(b) The statement of facts and the affidavit filed in support thereof should preferably, be in the English language, but if is in any language other than English, it shall be accompanied by a translation thereof in English, duly authenticated by the Counsel appearing on behalf of the person filing the statement of facts or any magistrate of the first class :

(c) Every affidavit shall be drawn up in the first person and shall be divided into paragraphs, to be numbered consecutively, each material statement of fact being made the subject-matter of a separate paragraph;

(d) Every affidavit shall include therein the correct description, occupation and place of abode of the deponent and shall contain, at the end, a verification in the following form, namely :

The Chief Minister of Karnataka pre-empted the Central inquiry by appointing a State Inquiry Commission. He also challenged the appointment of the central Commission of Inquiry in the Supreme Court on the ground that it was unconstitutional. Lal Narain Sinha, Counsel for Karnataka told a seven-judge constitution bench of the Supreme Court on 9 August 1977, that the



appointment of the Commission of inquiry by the Centre to go into allegations against the Chief Minister and some ministers of Karnataka was destructive of the principle of collective responsibility of the ministry to the assembly.

He contended that the Assembly, to which the ministry was individually and collectively responsible, alone had the power to question or investigate alleged lapses or cause them to be investigated by a committee or under the Commission of Inquiry Act. The appointment of the Grover Commission amounted to interference in the state sphere and was violative of the federal principle.

Counsel told the bench that there was an implied prohibition in Chapter two of Part 11 of the Constitution that the Central executive could not control the state executive, save in certain cases. Counsel contended that the power of inquiring into the conduct of state ministers fell within the purview of the Assembly.<sup>1</sup>

By a majority of six to one, the Supreme Court dismissed on 8 November 1977 the suit filed by the State of Karnataka challenging the appointment of the Grover Commission.

The following two comments deserve attention :

(1) There is no question of with-holding, nor vindictiveness. The Commissions have to stay within the parameters of law. It will be difficult to find everything in black and white; the ones who went beyond their authority or indulged in the excesses were not fools to have left their footprints behind. The Commissions will have to go beyond what may be a strictly judicial approach. What they have to ensure is that no conclusion is reached without substantial evidence which need not be strictly legal. No doubt the allegations should have all the relevant facts supported by documents and corroborative evidence to enable the Commissions to arrive at the truth. But it will be a pity if some charges are thrown out on the plea that legally they are weak.

It would have been better if there had been a Court of Crimes against the Constitution—something like the Nuremberg trial—and all those, including some journalists, had been hauled before it to prove their innocence. The proceedings of the Court should have been broadcast and televised so that people could have come to know those who perpetrated crimes on them. The future generations would then have been ensured against similar victimisation.

But today even those who did wrongs in the name of the Emergency are parading themselves as victims of the Emergency. Those whose hands are stained with blood are taking shelter behind technicalities and some intellectuals in their pontifical way have begun to rationalise what happened during the Emergency.

<sup>1</sup> *Times of India*, 10 August 1977.

After all, what the Commissions will do is only to make a report of their findings and recommendations, without any legal sanctity. The statements made by any person before the Commission are wholly inadmissible as evidence in any proceeding, civil or criminal. The reports are purely recommendatory, to enable the Government to make up its mind. Prosecution against any individual or group will have to be launched separately and that will consume further time, apart from the fact that the same exercise will have to be gone over again.

(2) Can a poor country like India afford to spend large sums of money on Commissions of Inquiry, particularly when the Government is not bound to accept their recommendations? In the first two decades of Independence, nearly 165 Commissions were set up. The average life-span has been two years.

While a few like the ad hoc Inquiry Commission on Food Poisoning in Kerala and Tamil Nadu were able to complete their work within a month or so, others like the P. C. Barooah Committee on Rehabilitation of East Pakistan Refugees or the Surplus Waste Land in Assam Tea Gardens have taken over six years.

Each such public inquiry costs a lot of money for expensive travelling and to maintain a large secretarial staff. The average per-day expenditure has been estimated at Rs. 6,000. The total expenditure on each Commission may vary from Rs. 50,000 to Rs. 50,00,000 according to some sources. A joint committee of Parliament suggested that a specific provision should be included in the Commissions of Inquiry Act, 1952 to make it obligatory for the Centre or the State Governments to place the findings before Parliament or the Assembly concerned.

The assassination of Mahatma Gandhi resulted in three Local Inquiry Commissions in Delhi, besides the court trial. Seventeen years after the death of the Mahatma, once again doubts were raised : a new Commission of Inquiry was appointed in 1965. The report was published in 1970. No action was taken on its findings.

The S. R. Das Commission's report into the alleged misconduct of the late Pratap Singh Kairon, the former Chief Minister of Punjab, met with the same fate. The report on a police firing in a coal mine in MP took two years to be completed and another four years to be gazetted. Such is the case in almost all other States. There have been high-level inquiries into police firings, communal riots, official corruption and other unsavoury episodes. A survey of the fate of inquiry commissions showed that, except in a few cases, their reports were consigned to the archives.

## V. ADVISORY BODIES

A notable trend in Public Administration is the increasing use

of advisory bodies relative to the process of administration. In our own country there has grown up, in the last few decades, a network of advisory bodies at all levels of government. According to Pfiffner the ordinary concept of the advisory body is a group of experts and representatives of the public called in to function, usually on a voluntary basis, as a consultative group and to render advice and recommendations in regard to administrative problems and procedure.<sup>1</sup> In its widest sense, the term 'advisory body' is intended to describe any body appointed with the purpose of advising the Government at any level—national, regional and local or any branch of administration.

The fact is generally admitted that (a) the methods of government services are largely bureaucratic as their attention is mostly devoted to routine operations, and (b) the various government departments or agencies work, as it were, in water-tight compartments. So it is very necessary that government services (i) maintain intimate contact with private interests affected by their activities so that their actions, as far as possible, may conform to the best interests of the public served; and (ii) work in harmony and co-operation with other services, whose operations also fall in the same general field. Advisory bodies are the best means through which government agencies can maintain contacts with the public, since they may embrace : (a) representatives of the private interests and organisations, and (b) representatives of the government.

Such advisory bodies are an aid to the executive and the legislature in formulating and acting upon governmental legislation as well as budgetary proposals. The formal advisory committee is one means of keeping in touch with opinions of groups. Many agencies have developed an extensive system of such committees and general rules to guide their operations. Such rules often establish a procedure by which affected private interests may be consulted by the agency, but will not be permitted to block action that is indicated by the public interest. Still more important are the degree of public support for the purpose of the agency, the effectiveness of its organisation and operations, and the cohesiveness of the private interests and their willingness to cooperate with the government.

The Oxford University Policies Research Group in their preface to 'Advisory Bodies' in a striking manner observes : The proper use of advisory bodies is the right answer of representative democracy to the challenge of the corporative state of Mussolini. A Parliament elected upon a general franchise and a geographical basis is very suitable for the political problems which dominated the scene in the last century. But for the specialized economic and social problems of modern state it is insufficiently expert in itself

<sup>1</sup> J. M. Pfiffner, *Public Administration*, 130.

to control administrative action.<sup>1</sup> Briefly stated, the uses of the advisory bodies are mainly two. *First*, through them the administration may receive the benefit of the opinions and experience of citizens in such fields as industry, commerce, education, etc. Thus they can become important instruments of eliciting people's co-operation, with the result that departments or agencies can adjust government policies and procedures to the requirements of the public needs and convenience. Thus harmony will be maintained between administration and the public. *Secondly*, advisory bodies may help in promoting inter-departmental co-operation and co-ordination.

Advisory bodies (or committees) have multiplied in recent years in almost all the democratic states. They have not emerged on the basis of any political or administrative doctrine. They have usually been brought into existence in response to specific needs as and when they have been felt. The modern phenomenon of advisory committees in government is almost a common feature of the democratic states. Advisory bodies may be either permanent or temporary. The opinion in USA has been against the creation of permanent advisory bodies, although Americans have made use of temporary citizens advisory bodies in local jurisdictions. Such bodies are created to study a specific problem, prepare a report and then disband. But in Great Britain several government departments obtain expert advice, intra-departmental coordination and inter-departmental harmony through permanent advisory bodies, which are generally called standing committees or councils. British administration also makes use of temporary bodies—ad hoc committees or commissions, which are appointed for a special purpose and are automatically dissolved when they have presented their final report. Such bodies may be divided into departmental, inter-departmental and Royal Commissions.

The Advisory Committees and Councils in India may be placed in these groups : (1) Advisory bodies which aim at associating groups and classes of citizens with the execution of a particular policy of the government which affects them ; (2) Committees and Councils set up at higher levels to associate affected interests (such as labour, commerce, industry, etc.) with the determination of sub-policies and governmental procedures involving dealings with the public ; and (3) (a) Advisory bodies for purposes of research and enquiry and for associating experts and specialists from outside the government to advise on specific problems ; and (b) Advisory bodies to advise on matters of planning.

The constitution of the National Savings Advisory Committee is given here as a typical example. This Committee coordinates

<sup>1</sup> Vernon and Mansergh (ed.), *Advisory Bodies*, Preface.

and guides the activities of the Savings Advisory Committees in the States, assists and advises the Government of India generally in regard to measures necessary to intensify the National Savings Movement in the country and popularise the small savings scheme. It also advises the Government on specific organisational and publicity matters relating to the National Savings Movement which may be brought to its attention. The Committee is headed by a chairman and has 13 non-official members. The National Savings Commissioner acts as its member-secretary. The Committee may also co-opt specialists in different fields, e. g., eminent economists, sociologists, etc., as members, as and when necessary.

#### NATIONAL RAILWAY USERS' CONSULTATIVE COUNCIL (N.R.U.C.C.)

The Council was formed in 1953 for the purpose of securing better representation of Railway users and afford more frequent opportunities for consultation between Railways and their users. Its members hold office for a period not exceeding two years, except the members of Parliament and the representative of the coal industry therein, whose tenure is one year. It consists of about 40 members appointed by the Minister of Railways. The council ordinarily meets at least once a year. The Minister of Railways presides at the meetings. The Joint Director, Traffic (General), Railway Board Acts as the Secretary of the Council. Its functions are to consider : (i) such matters relating to services and facilities provided by the Railways as may be referred to it ; (ii) Such matters falling within the scope of the functions of the Zonal Committees as are referred to it ; and (iii) Such other matters relating to the services and facilities on Railways which an individual member, with the approval of the Chairman, desires to be included in the agenda. Besides the NRUCC there are the Zonal Railway Users' Consultative Committees (ZRUCC) and a Divisional Railway Users' Consultative Committees (DRUCC).<sup>1</sup>

#### NATIONAL ADVISORY COMMITTEE ON PUBLIC COOPERATION

The Committee, originally constituted by the Government of India in 1958, was reconstituted to make it more representative and broad-based. The reconstituted Committee has as its members all the members of the Planning Commission, 7 members of Parliament, 6 prominent social workers in the country and representatives of 46 voluntary organisations. Its functions are to review and assess the progress of public cooperation in relation to national development, advise the Planning Commission from time to time regarding the progress of public cooperation in relation to the fulfilment of the

<sup>1</sup> For the constitution and functions of the National Development Council, see Chapter 16.

Plan and make suggestions and recommendations on matters of policy and on programmes relating to public cooperation.

#### NATIONAL YOUTH BOARD

The Government of India constituted the National Advisory Board on Youth with the Union Minister of Education and Youth Services as Chairman. The Board was set up to : (1) enunciate and implement a policy on youth in collaboration with the State Governments and other agencies ; (2) provide necessary co-ordination between various governmental and non-governmental agencies engaged in the promotion of youth welfare and youth services programmes and accredited organisations working in the field ; (3) formulate and sponsor youth programmes for implementation by the Central and State Governments as well as other agencies and organisations and render advice and technical assistance in their execution ; (4) recommend various youth programmes for financial assistance by Government ; (5) evaluate youth programmes and indicate areas and topics on which research in youth programmes should be conducted ; (6) organise, through appropriate institutions, the training of youth leaders and other key personnel ; and (7) assume clearing house functions like preparation of reports, pamphlets, monographs, literature on youth activities, holding of seminars and symposiums relating to youth programmes and undertake any other activity on the suggestion of the Government of India or other national and international organisations.

In the end we may mention some advisory bodies in the States. The Government of Maharashtra constituted a State Tribes Advisory Council under the Chairmanship of the Minister for Prohibition and Social Welfare in 1960. The Director of Social Welfare was its Secretary and it had 18 other members including Secretary to the Government of Maharashtra, Education and Social Welfare Department, 14 members of the legislature and 3 other non-officials. The function of the Council was to advise on matters pertaining to the welfare and advancement of the Scheduled Tribes in the State. The Government of Maharashtra also constituted a 16-men State Advisory Council of Industries, with the State Chief Minister as Chairman and the Secretary to the Government of Maharashtra, Industries and Labour Department, as its Member-Secretary in 1961. The Council was required to explore the possibilities of industrial development of the State from time to time, deal with specific problems relating to industries in the matter of their organisation and administration, examine and discuss the best manner of utilization of the raw material and resources of the State for its economic development and advise Government generally in matters of industrial policy and coordination.

With a view to promoting co-operative farming, the Govern-

ment of Rajasthan set up in 1963 the Rajasthan State Co-operative Farming Advisory Board, under the chairmanship of the Chief Minister. Its functions were : (i) to advise the Government on the question of planning and promoting the programme of cooperative farming on voluntary basis ; (ii) to review the progress and suggest modifications in the programme ; (iii) to suggest arrangement for educating and training of personnel required for implementing the programme, etc. The State Government had also constituted a fairly large number of consultative advisory committees at the State level for various activities.

#### STATE AND DISTRICT HEALTH ADVISORY COMMITTEES IN U.P.

The State Government set up in 1968 a 22-member State Health Advisory Committee, and 13-member Health Advisory Committees at the district level so that there might be proper coordination between the Public Health and Medical Departments of the Government and the public. The State Health Advisory Committee mainly supervised the work of the District Committees and assisted the Government in formulating policies in respect of basic problems regarding public health. District Committees inspected from time to time, all government hospitals and dispensaries and sought the cooperation of the public in raising funds for expansion and development of medical facilities.

## CHAPTER XX

# PUBLIC RELATIONS

### I. WHAT, WHY AND HOW OF PUBLIC RELATIONS

#### WHAT IS PUBLIC RELATIONS ?

Much is heard these days about public relations. Administrators as well as business-men realise the value of cultivating public relations. 'Public relations means the development of cordial, equitable and, therefore, mutually profitable relations between a business, industry or organisation and the public.' Bertrand Canfield has defined public relations, 'as the business of gaining and maintaining public understanding and support.' It is a technique through which an organisation consciously attempts to fulfil its social responsibilities and secure public recognition and approval to accomplish success in its objective.

In the field of public administration, it is a process by which the governmental organisation analyses the need and desires of the people in order to conduct itself more responsively towards them. Looked at from another angle, public relations is a planned programme of policies and action designed by public administration to build public confidence and increase public understanding of the policies and measures of the government. Essentially public relations is a two-way process of explaining the work of departments to the people and the wishes of the people to the departments. 'In the broadest sense, public relations is almost synonymous with the administrative process itself, because its process is to satisfy all parties of interest—public employees, and management included.... All organisations, whether of business or of government, compete for the favour of their master, which is the public ; the prize is favourable public opinion.'<sup>1</sup>

As is the case with most other terms used in Political Science and Public Administration, there is no agreed definition of 'public relations'. However, its basic contents are : learning about the wishes and opinions of the people, advising the public, cultivating satisfactory contact with the public and keeping it well informed about government activities. The scope of public relations is much wider than what is meant by government publicity or mere dissemination.

<sup>1</sup> Dimock and Dimock, *Public Administration*, 404.



ation of information. Used in its most literal sense the term 'public relations' covers all relations with the public. Propaganda, Publicity and Public Relations all have much in common, although propaganda has been under odium because with its help even lies can take the semblance of truth. Publicity is less offensive and more modest. Advertisements are meant to sell the advertised goods. 'Public relations' does not suffer from the drawbacks either of propaganda or publicity. It does not so much mean to sell something as to win friends and influence opinion.

#### WHY PUBLIC RELATIONS ?

We live in a democratic age, and it is a common saying that in a democracy the people are the sovereign masters. The inference is obvious; the civil servants as administrators must serve their masters. It is now widely recognised that good relations should be established between government departments and the people. The scope of state activity has increased so much that it enters the day-to-day lives of the people in several respects. It has, therefore, become vastly more important than ever before that there should be available to the public the fullest opportunity for understanding its nature and meaning and the usefulness of government measures. At one level, the citizens' advice bureau is a recognition of the need for help and explanation. At another, the whole development of departmental public relations officers to publicise departmental policies and make available to press and public the necessary information, as well as to counteract misunderstanding and criticisms based upon them, is also an acknowledgement of new need.<sup>1</sup>

The purpose of public relations is not only to supply information, but also to encourage an understanding and cooperation between the citizens and the public servants. An enlightened public relations policy should seek to discover the state of mind of the public concerned, by facilitating the expression of suggestions and grievances, by investigating into public attitude and opinion, and by other means that have been developed by more progressive commercial organisations interested in consumer reactions. This important phase of public relations should receive careful attention of the public authorities. Informing the people at large is just as essential as informing the legislature, for ignorance on their part may breed indifference or misunderstanding concerning the policies and plans of the Government. Countries in a stage of rapid development have learned by bitter experience that popular support for and understanding of a development programme are indispensable.

With the widening of the field of government it becomes increasingly difficult to instruct the people as to the uses to which their money has been put as well as those objects for which it is

<sup>1</sup> H. R. G. Greaves, *The Civil Service in the Changing State*, 214.

proposed to expend future sums. A man in private business frequently answers that he does not have to give his reasons; sometimes he even resents being asked for them. But a public official should beg for widespread discussion of public problems, for only in this way can he get the necessary public support for those plans deserving support. Too frequently the public has either half information or misinformation.

The importance of public relations today has never been doubted. Modern organisations have to deal with a large number 'publics', ranging from their own employees to specific interest groups. In a sense, public relations is primarily concerned with the problems of legitimising the organisation in the environment, thereby ensuring that the latter and its objectives would be accepted by the different sets of 'publics' or clientele groups. With the growing differentiation of managerial skills required at the decision-making level, policy formulators have increasingly relied on public relations officers to assess clientele responses and demands.

Public relations is no less important to the effective functioning of the public bureaucracy. The democratic constitutional framework has often provided the environment in which the activities of the bureaucracy have come under close scrutiny. Apart from the belief in the sovereignty of individual rights, there is the underlying acceptance that the bureaucracy in a democratic political system should be accountable for its activities. A former British prime minister, Lord Atlee aptly remarked: 'It is essential to good administration under a democratic system that the public shall be adequately informed about the many matters in which Government action directly impinges on their daily lives....'<sup>1</sup>

The art of communication has been professionalised into the science of public relations, which occupy a pivotal position in the management structure inside or outside government. The main objective of public relations in government is to give publicity to governmental action without being propagandist, explain the general policy and activity of the Government, educate the citizen in his rights and duties in a non-political manner and what is more important, apprise the department of the public's reactions and about the public image of the department. So the most important problem is that of creating the right type of relations between the administration and the public, which alone can ensure the proper climate for the success of administration under planning in particular.

'Information is now recognised as a valuable resource and has been termed as one of 'The 8 Ms'—men, materials, machinery, money, methods, markets, moments and messages—a term used for information.' Government activities fall broadly into four segments—

<sup>1</sup> Seah Chee Meow, 'Public Relations in the Singapore Bureaucracy', *I. J. P. A.*, Oct.-Dec. 1972, 612-13.

(1) Urban and Local Governments, (2) State Governments, (3) Central Government, and (4) Autonomous Undertakings.

With rapid urbanisation the municipal governments have to deal with the complex problems. They have to tackle problems created by a high density society, have to deliver a wide range of services to the community, and have to allocate resources to structure the type of society we have set out to achieve. The traditional role of our municipalities is undergoing a transformation with the result that the local governments are being called upon, more and more, to exercise a key role in controlling the development of community life. Municipal Information Service will go a long way in enabling our local and urban governments in playing these new roles. But progress to date in the field of developing information service is nil. At the level of the State Government, there is a need for systems which would require intra as well as inter-State sharing of data. At the Central Government level we have to think of national information systems which play a vital role in planning for the social uplift of the country. The public sector undertakings should have public good as the focus of their information services.<sup>1</sup>

The scope of public relations, as we conceive it, involves much more than the mere dissemination of information. The term is here taken in a most literal sense as covering all relations with the public. The acts of service, whatever they may be, as well as the bearing and behaviour of those performing them, should be satisfactory to the public. Satisfaction is a subjective state. To determine its presence or absence calls for expression on the part of those served. An enlightened public relations policy will, therefore, seek to discover the state of mind of the public concerned—by facilitating the expression of suggestions and grievances, by attitude and opinion investigations, and by other means that have been developed by the more progressive commercial concerns interested in consumer reactions. This phase of public relations has been pretty generally neglected by public authorities in India.

The Central Information Office in the British Government has a social survey division which continuously studies public reaction to governmental policy. The Western system of a reception-cum-information office where any citizen can have guidance and information, considerably helps in humanizing administration. In the USA during the Second Great War, a Central Information Office was opened to give information under one roof on any sector of administration. In West Germany, the civil servants and the citizens are invited to give suggestions for administrative improvement and cash awards are made. In Italy, the Office of Administrative Reforms conducts periodical competitions for the simplification of

<sup>1</sup> Virendra Gupta and G. K. Amar, 'Objectives of Governmental Information Systems', *I. J. P. A.*, Oct.-Dec. 1976, 640-648.

administrative procedure. In Yugoslavia, members of municipal assemblies inform the citizens of their activities in electors' meetings.

Adequate facilities for the reception and processing of complaints are necessary not only on humanitarian grounds but also because the complaints can give a faithful image of how a particular policy is having an impact on the citizen. The Postal Department of the USA conducts research on complaints. In some of the East European countries, there are detailed codes for the disposal of complaints within prescribed time limits and any delay is severely dealt with. The heads of departments are personally responsible to ensure proper handling of complaints. No period of limitation is prescribed for complaining. One need not establish personal or direct interest in such complaints. Section 50 of the British Police Act lays down that the police authority must keep itself informed as to how the complaints from the public and the police staff are dealt with by the Chief Officer of Police. In the USSR the Procurator General (who is an appointee of the Supreme Soviet) and his 2,000 Procurators continuously look into complaints from the public against the administration at various levels. In the US Department of Agriculture, the Inspector-General meets the complainants personally. In Haifa, all senior officers are obliged to spend one week every year in the complaint offices. In the USSR practically every department has a complaint cell. Personal interview to hear complaints is the most direct method of communication with the aggrieved. In Denmark, the ministers meet the public every Thursday morning. In Japan, the ministers and the civil servants go out into the countryside to meet the people. In Poland, the heads of departments hold weekly meetings to hear the complaints.

#### HOW TO CONDUCT PUBLIC RELATIONS ?

The most important point is that government information, publicity, and public relations services should be treated as an integrated whole. The work of all these branches should be brought together in a central office or department. For different purposes the government may employ public relations officers, information officers and press officers. The Public Relations Officer (PRO) attached to a department is mainly responsible for telling the public what the department is doing, for initiating campaigns and in general for explaining simply and clearly the effect of new legislation and new policies upon the ordinary citizen. He has a general responsibility over the arrangement for receiving visitors to the department and supervise the public enquiry rooms. He has to see that the public is kept fully informed of all matters of importance connected with the day-to-day affairs of his department (or ministry). He is also expected to act as the regular channel of information between the depart-

ment and the press. In short, he must be expert at explaining to the public in an easily understandable form what the public wants to, or should, know. Pamphlets, posters, lecture materials, broadcasts, films and exhibitions, are part of his stock in trade.

The Press Officer has a more limited, though an equally important, part to play. He stands between the department and the press. In a large department the press officer and his staff may have to deal with hundreds of telephone enquiries every day. It is one of his important responsibilities to circulate to newspapers and such other agencies, both inside the country and abroad, summaries of White Papers, memoranda, and circulars which explain the department's activities in so far as they are news. Both in USA and UK an increasing use is being made of the technique of press conference by the senior civil servants. Most of the advanced countries have created information departments for conducting government publicity and also posts of public relations officers.

Rightly or wrongly, the art of communication is becoming professionalised, and a practitioner of this art must be involved in it for whole time. But public relations are not a one-way traffic. A good government, particularly a democratic one, must be anxious to know about the anxieties, the fears and the aspirations of the people. It should be anxious to know whether the benefits of various laws, measures and schemes for the benefit of the people are really reaching them ; and whether they are suffering on account of shortages or difficulties of any other kinds.

An adequate system of public relations advocated here requires skill in the selection and representation of material. If the Government wishes to have an informed citizenry, it must make its information palatable and able to compete with other sources of news and interest. The essential facts and arguments need to be well selected and attractively presented in forms that can be communicated through popular media such as the press, the radio or television. Channels should be established to keep the press informed. Regular and informal contacts between agencies of the press and senior officials should be maintained.

The Central and State Governments have been making provisions for Information and Publicity schemes in their Plans. These provisions have enabled the Publicity Departments at the Centre as well as in the State to extend their activities and strengthen some of their outfls. However, this augmentation has not been commensurate with the tasks before the country. There are still large areas in the country which remain uncovered by any media of mass communication. In the formulation of programmes, the basic approach will necessarily have to be to fill these glaring gaps. The regions which are backward and which do not have publicity facilities at present, will have to be provided with the minimum facilities.

## II. INFORMATION AND PUBLICITY IN INDIA

The earliest information activity of the Government of India was organised for press publicity and propaganda under a Central Bureau of Information, which came into existence after the First World War under the administrative control of the Home Department. Besides other work, the Bureau was made responsible for compiling the yearly 'Moral and Material Progress of India' for presentation to the British Parliament as required by the Act of 1858. A separate Department of Information and Broadcasting was created in October 1941 and the various publicity agencies functioning under the control of other departments were brought under its unified control. However, a Directorate of Public Relations continued to function under the control of the General Headquarters. A regular broadcasting service in India began in 1926. In June 1936, All India Radio replaced the earlier Indian State Broadcasting Service. The Department of Information and Broadcasting became a full-fledged Ministry on 15 August 1947.

The term 'mass communication' stands for dissemination of information, ideas and entertainment by the use of communication media. The media include modern means of communication such as the radio, the film, the television, the press, publications and advertising. In fact they co-exist with important traditional media such as folk dance, drama and puppetry. In India, the Ministry of Information and Broadcasting has a huge set-up of mass communication, with the regional and branch offices as well as mobile units, spread all over the country. We now discuss very briefly the role of various media.

### RADIO

Radio broadcasts started in India in 1927 with two privately owned transmitters in Bombay and Calcutta. The Government of India took them over in 1930 and the Posts and Telegraphs Department started operating them under the name of Indian Broadcasting Service. In 1936, the name of the service was changed to All India Radio (also known as 'Akashvani' since 1957) and it was made a separate department. AIR is now the biggest media organisation of the Ministry of Information and Broadcasting and its programmes are received by 1.48 crore radio receiver sets in India. Broadcasting is wholly a state-owned system in India. It is serving as an effective medium not only to inform and educate people but also to provide healthy entertainment. It is also helping to create a climate of opinion in which social change can take place and people could be involved in the process.

## TELEVISION

The first television centre in India was commissioned at Delhi in 1959. As a UNESCO-aided project, its purpose was to gauge the effectiveness of television in community development and adult education. Transmission was limited to a 24 km. radius and tele-clubs were organised at twenty community centres, where the viewers engaged themselves in group discussion after every telecast. The success of the project made way for further expansion of television services and the medium is now expanding rapidly. Besides the television centre at Bombay, which was commissioned in 1972, two other centres were set up in 1973 at Srinagar (26 January) and Amritsar (29 September) and a relay centre at Pune (2 October). In 1975 television centres were commissioned at Calcutta (9 August), Madras (15 August), and Lucknow (27 November).

## NEWSPAPERS

The number of newspapers stood at 12,185 at the end of 1974. But about a third of the newspapers were published from the four metropolitan cities of Bombay, Calcutta, Delhi and Madras. Out of 12,185 newspapers, 822 were dailies, 68 tri/bi-weeklies, 3,666 weeklies and 7,629 other periodicals. Statewise, Maharashtra had the largest number of papers (1,750) followed by Uttar Pradesh which had 1,629, Delhi 1,452, West Bengal 1,174, and Tamil Nadu 836. Other States which had more than 500 newspapers in 1974 were Andhra Pradesh (743), Rajasthan (698), Kerala (626), Karnataka (545), Madhya Pradesh (540) and Gujarat (530). The largest number of dailies (135) came from Uttar Pradesh, the smallest, one each, appeared from Andaman and Nicobar Islands, Himachal Pradesh, Meghalaya and Pondicherry. A language-wise break of newspapers shows that the largest number, 3,200 was published in Hindi, followed by 2,453 in English, 915 in Urdu, 739 in Bengali, 717 in Marathi, 569 in Gujarati, 527 in Tamil.

The data available for 1974 show that the newspapers had a circulation of 330.92 lakh copies compared to 562.70 lakhs in 1973. Out of 7,459 newspapers for which information was made available, about 95 per cent claimed a circulation of upto 15,000 copies per 150.79 lakhs. The 243 medium newspapers having a circulation between 15,000 and 50,000 copies claimed a combined circulation of 65.26 lakhs. However, 103 big newspapers, having a circulation of more than 50,000 copies, together accounted for 114.87 lakh copies or 34.7 per cent of the total circulation of all the newspapers in India.

## PRESS INFORMATION BUREAU

It disseminates information about the policies and programmes

of the Government of India through the media of the press. It also keeps the Government informed of the reaction to these policies as reflected in the press. PIB offices attached to the various ministries issue press release and feature articles, arrange press conferences and maintain contacts with the Indian and foreign correspondents and cameramen accredited to the Government of India. The PIB co-ordinates publicity with the State Governments and the public sector undertakings. It also maintains liaison with the External Publicity Division of the Ministry of External Affairs and supplies publicity material to Indian diplomatic missions abroad.

The Bureau's information material is issued in English, Hindi and 13 other languages and is supplied not only to news agencies and journalists stationed in Delhi but also to the language press all over the country through its 28 regional and branch offices, which are linked by teleprinter circuits with the headquarters in Delhi. For the benefit of small and medium newspapers, PIB provides special services like the weekly digest of news, short illustrated feature articles on diverse subjects, economic digest, agricultural newsletter, science notes, health and family planning newsletter and book reviews. Illustrated success stories covering development activities are also supplied to newspapers.

PIB runs Information Centres at New Delhi, Jullundur, Srinagar, Imphal and Aizawl. They provide reading room and library facilities and answer queries posed by the journalists and the public. Film shows are also arranged at these centres. Some of the State Governments also maintain Information Centres at Delhi and elsewhere. A single-sheet weekly wall newspaper, 'Hamara Desh', launched in 1970 and edited by PIB is published in English, Hindi, and several regional languages. It projects the country's achievements and progress in various fields. Copies are displayed at key points in government and private sector offices, railway stations, canteens, schools and other places, particularly in remote areas.

Press Trust of India (PTI), United News of India (UNI) Samachar Bharati and Hindustan Samachar—the four principal news agencies of India, decided in early 1976, to merge voluntarily into a single national news agency so as to function effectively and purposefully. The new agency is expected to expand so as to cover all areas, specially rural areas and all relevant fields of activity, in accordance with well accepted national goals. With effect from 1 February 1976 all news coverage by the four news agencies came under a common bye line of Samachar. But the new Government decided to split Samachar and revive the old news agencies. This decision has already come into force.

#### FILMS

In 1974, 435 feature films were produced, 210 of them in



colour. Bombay, Calcutta, and Madras are the most important centres for the making of films. In 1974, 141 films were produced in Bombay, 42 in Calcutta and 252 in Madras. As many as 2,264 short films, including 1,437 films in 35 mm, 826 films in 16 mm and 1 film in 8 mm were also certified for public exhibition in 1974. Films are produced on various themes. Social subjects, however, predominate and 268 films in this category were certified in 1974. Weekly Indian News Review, Cartoon Films and documentaries required for public information, education and instruction are produced by the Films Division of the Ministry of Information and Broadcasting. The Division was set up in 1948 and has produced more than 3,000 films. Most of the films are produced in English and 14 regional languages.

Important newsworthy events within and outside India are included in the weekly national newsreels. The Films Division has exchange arrangements with 21 foreign newsreel organisations for free exchange of important international news events. Eighteen newsreel cameramen stationed at various centres in India cover important news events. News events are also filmed by state government film units. At present, the Division releases one newsreel per region in a month. The cartoon film unit of the Division produces cartoons by using a variety of techniques. Every cinema house in India is required, under the terms of its licence, to exhibit at each performance not more than 609 metres of 'approved films' supplied by the Division on a rental of 1 per cent of the average weekly collections.

#### JOURNALS

The Division brings out 17 journals of varying periodicity. 'Yojana', a journal devoted to planning, is brought out in Assamese, Bengali, English, Gujarati, Hindi, Malayalam, Marathi, Tamil and Telugu. 'Bal Bharati' (Hindi) is produced for children, while 'Aajkal' (Hindi and Urdu) serves the cultural needs of adult readers. Other journals include the 'Indian and Foreign Review' and 'Kurukshetra'.

#### THE DIRECTORATE OF ADVERTISING AND VISUAL PUBLICITY

It is the central agency of the Government of India for undertaking mass advertising and visual publicity campaigns on behalf of the various ministries, departments and autonomous bodies under the government through press advertisements, printed publicity material like folders, leaflets, brochures and booklets, outdoor publicity items like hoardings, panels and metallic tablets and radio 'spots'. Policies and programmes of the government are also publicised through photographic exhibitions. Radio advertising for the nationalised banks is also undertaken by the DAVP. The multimedia national campaigns of the Directorate are launched to inform and educate the people on matters of immediate and long-term

interest. While some of the major campaigns aimed at seeking public support for checking hoarding and adulteration of foodgrains, other campaigns sought to motivate the people for family planning, small savings, community development, industrial projects in rural and backward areas and the promotion of exports.

#### THE INDIAN INSTITUTE OF MASS COMMUNICATION

It was set up by the Ministry of Information and Broadcasting in August 1965 as a centre for study and research in mass communication. It has been an autonomous body since January 1966 and is equipped to provide practical instruction in various media of mass communication. The Institute has seven faculties : developmental communication, print medium, radio-television and speech communication, visual communication, advertising and campaign planning, traditional media, and communication research. It has three kinds of regular training courses.<sup>1</sup>

### III. MINISTRY OF INFORMATION AND BROADCASTING

The Central Ministry of Information and Broadcasting is responsible for the following functions :

#### A. RADIO

(1) All business connected with All India Radio embracing news services in the home programmes, programmes for foreign countries and Indians overseas, radio journals, researches in the field of broadcast engineering, etc. (2) Development of broadcasting throughout the Union, installation and maintenance of radio stations/transmitters.

#### B. FILMS

(1) Production and distribution of documentaries and newsreels and other films and film scripts for internal and external publicity. (2) Sanction of Cinematograph Films for exhibition. (3) Administration of the Cinematograph Act 1952, which includes : (i) Examination and certification of Cinematograph film for public exhibition by the Central Board of Film Censors, and (ii) Regulation of exhibitions by means of cinematograph in Union Territories. (4) Grant of State Awards for films produced in India.

#### C. ADVERTISING AND VISUAL PUBLICITY

Production and release of all display advertisements of the Government of India through the media of press, posters, folders, calendars, blotters, leaflets, hoardings, cinema slides, etc., also release of classified advertisements on behalf of the Government of India.

<sup>1</sup> *India, Reference Annual*, 1976, 113-38.

#### D. PRESS

(1) Presentation and interpretation of the policies and activities of the Government of India through the medium of the Press.  
 (2) Advising Government on information problems relating to the Press, keeping Government informed of the main trends of public opinion as reflected in the Press and liaison between Government and the Press.

#### E. PUBLICATIONS

Production, sale and distribution of popular pamphlets, books and journals on matters of national importance for internal as well as external publicity with a view to imparting to the general public at home and abroad upto date and correct information about India.

#### F. RESEARCH AND REFERENCE

To assist the Media Units of the Information and Broadcasting Ministry in collection, compilation and preparation of material involving research into published works etc. Attached and Subordinate Organisations of the Ministry are : (a) All India Radio, (b) Films Division, (c) Central Board of Film Censors, (d) Directorate of Advertising and Visual Publicity, (e) Press Information Bureau, (f) Publications Division, (g) Research and Reference Division, (h) Office of the Registrar of Newspapers for India, and (i) Five-Year Plan Publicity Unit.

It is heartening to note that the Government of India and the various State Governments have realised the importance of public relations and keeping the people informed about the various activities of the Government, particularly in the field of development. The creation of the information departments and establishment of information centres are steps in the right direction. Information and public relations officers have a vital role to play in this sphere. Their primary aim is to educate the people and keep the Government informed about public opinion. But it should not mean only boosting the achievements of a government or doing a bit of white-washing. We would suggest that there should be greater co-ordination between the Centre and the States in this sphere.

A substantial part of time and space of government media is given to its own views, policies and schemes. Substantial time and space are also given to the pronouncements of government leaders. Complaints are often made that government information media and public relations are being utilised for building up the image of the party and the political leaders in power. If the government or its leaders have initiated some programmes of considerable benefit to the masses, and this builds up the image of the party in power, none need have any grouse about it. But if the government and its

leaders endeavour to take more credit than is justified by their performance in any particular field of activity, and if their public relations officers are working as 'Image Merchants', this is bound to boomerang on them in course of time.

For reaching the people in the vast rural areas, public relations set-up's functioning at the headquarters of the Central and State Governments and even at the regional and district headquarters are not enough. To make up for this deficiency, government officials like the collector, superintendent of police, the district agricultural officer etc., must travel frequently by car, jeep or on horse-back and camp in remote villages and be easily accessible to any citizen who wants to see them. They must be their own public relations officers and not only explain government policies and programmes but also listen to suggestions from, and grievances of, the people.<sup>1</sup>

The Committee on Broadcasting and Information Media appointed in December 1964, under the chairmanship of A. K. Chanda, in its report on Coordination of the Media of Mass Communication said : 'The operation of government in a complicated modern State needs the machinery of public information as an integral part of its administrative apparatus. The collectivism of the twentieth century has given a new meaning and purpose to the State.' The regulation of the economic life of the nation has now become one of the responsibilities of the State, so keeping the public informed of the plans, policies and activities of the State is more important, even insistent in a comparatively underdeveloped country with inadequate facilities and difficulties in reaching the people

The need remains to inform and educate the rural community, to bring to it news of local interest and to educate it in matters vital to its progress and prosperity, such as agricultural production, health and hygiene, family planning and literacy, depicting achievements in these fields both in India and elsewhere. This can be done by small regional and language papers. But their growth has been hesitant and even retarded largely because of illiteracy. It is in these areas that PIB can come to their assistance by providing support, and services in a larger measure. But, in doing so, it should not give any grounds for being accused of interfering with the freedom of expression and editorial policy.

It recommended that the Ministry of Information and Broadcasting should be remodelled on the lines of the Railway and the Posts and Telegraphs Boards, manned largely by technical personnel. The other major recommendations are :

(1) The Minister of Information should be responsible for the formulation of information policy for the Government as a whole. He should advise the Cabinet on information matters and be accountable

<sup>1</sup> F. C. Gera, 'Need for Public Relations in Public Administration', *I. J. P. A.*, July-Sept. 1975, 541-43.

to Parliament for the Board's activities

(2) To play this role the Minister of Information must have a place in the Cabinet and high standing in the ruling party.

(3) The Minister should be supported by a Secretary who would also be ex-officio Chairman of the Central Information Board.

(4) The Board should replace the hierarchy of a conventional ministry.

The Committee in its report suggested that the Press Information Bureau should be organised to provide greater facilities and more services to regional and language newspapers. It must provide factual information faithfully and operate with moderation and judgment to avoid being looked upon as a vehicle of propaganda. The Government should also attach sufficient importance to framing information policies and the Minister of Information and Broadcasting should be in a position to advise the Cabinet on publicity problems. It also recommended that the responsibility of the Press Information Bureau to serve the Indian Language Press outside the metropolitan cities should be defined in detail and stressed. The regional and branch offices of the Bureau should, therefore, be allowed to develop initiative and enterprise and given the responsibility to collect, compile and prepare material in original in regional languages.

The Committee suggested that when Parliament is not in session, all major decisions should be announced at Press Conferences by those competent to explain their rationale and implications. The briefings by the Cabinet Secretary after the meetings, should be more intimate and they should interpret and elaborate issues under discussion. The Committee further recommended that research, reference, library and documentation services, now dispersed in many units, should be coalesced under the Research and Reference Division to form a single organisation. Continuous studies on important problems should be carried on to serve the press and other media units. The organisation should be adequately strengthened by suitable staff and have micro-filming equipment and other facilities.

The Committee also observed that the main role of the Directorate of Advertising and Visual Publicity should be that of the Publicity Consultant to the Government. It should work in close touch with the Ministries in conceiving and planning major campaigns. The Committee suggested that the Directorate should be treated solely as a medium of mass communication and not encumbered with many minor unrelated functions. Once it is relieved of all extraneous functions and suitably strengthened, it should be possible for the Directorate to perform the dual role of planning and executing national campaigns effectively. It would be of advantage to keep the two roles distinct with a common controlling and coordinating authority.

The Committee recommended the creation of a small cell in the Ministry of Information and Broadcasting to provide the necessary

coordination needed for successful national campaigns. The cell should be composed of experts in the various media of mass communication. The Committee expressed the view that as the Campaign Officers do not have direct access to the Ministers and Secretaries, their work suffers due to lack of authoritative briefing. To make them better aware of the needs of the Ministries, the Committee has suggested an experiment of attaching Campaign Officers with the Ministries of Health, Agriculture and Education. National campaigns should be so designed as to have necessary regional appeal. Target areas for different campaigns should be selected and display advertisements with local identification should be designed. The Committee also observed that the medium of exhibition should be given high priority and at least two major campaigns should be launched every year. It should be followed by a small number of smaller exhibitions.

The major issue often posed is whether PIB should be retained as a common unified agency for press information and official news releases or whether the ministries should be provided with separate information units integrated into their structure as in many other countries. Even now PIB is not in over-all charge and control of all information and publicity. It has been argued by many that it is convenient for the press to deal with a single agency for information and its exposition. It would make the work of the press difficult and onerous if it had to approach many different agencies to collect information and obtain authoritative interpretation. There should be a focal point for elucidation of the policies of government as a whole. On the other hand, some journalists consider that there is no particular virtue in an organization like PIB which is expensive to maintain and slow in movement. It is further urged that as press information has to be supplied in a number of languages, a centralized agency for translation, dissemination and distribution is more economical than if all these were to be separately organized ministry-wise.

India is a country with many languages, many traditions, and many cultures and with States in different stages of development with widely varying needs. The activities of the Union impinge on the lives of the people in many ways and many forms. The need to apprise them of the various plans and programmes is far more insistent than elsewhere. Also the media of mass communication and even tele-communications in general are far less developed than in advanced industrial countries. It is against this background that the constitution of the Information Agency has to be considered and determined. The arguments that have been marshalled against a centralised agency arise not because of its concept but because it has been unable to function effectively and purposefully and most journalists including the Press Association consider that centralization is desirable in theory but it must be purposeful in practice as well.

The *first* essential is to restore the PIB's image as an organization of information rather than of propaganda or publicity for individuals. *Secondly*, it has to create and live in an atmosphere of a news-room. *Thirdly*, its officers should be sensitive to the needs of the press and bring to their work a professional, objective and uninhibited approach, and anticipate, plan ahead and co-ordinate their activities with other media. The question is how best to bring about this psychological transformation.

These principles still hold and have greater significance in a democratic state with organised parties in opposition. The party in power cannot be identified with government and official publicity cannot subserve the interests of the party. We regret to say that the Bureau does not respect or conform to the principles earlier accepted as essential attributes of an official information agency. Ministers and other public figures expect PIB to give publicity to their movements, statements and activities even when they have no connection with the work of government. To avoid their displeasure and to protect their service prospects, Information Officers are only too readily inclined to toe the line. In this situation the press can hardly be expected to attach any great importance to PIB's releases which are for the greater part publicity puffs for individual ministers and officials.

#### IV. INFORMATION AND PUBLICITY IN STATES

The pattern of Government publicity at the state level is somewhat similar. Most of the States have a separate department of information and public relations, headed by a 'director'. The State Directorates of Information or Public Relations usually have their centres at district and lower levels. To improve them it has been suggested : (1) There should be a Central Reception Office in the Secretariat manned by a Superintendent for attending to enquiries and requests for information. (2) One Assistant Secretary in each department of the Secretariat should be nominated to attend to public relations work and for pooling and transmitting the material required by the Information and Public Relations Department on prescribed dates and for supervising work of the Departmental receptionist, etc. (3) In the Offices of the Heads of Departments and in each collectorate, an Upper Division Clerk should be appointed as a receptionist for assisting the public. Further, it would be useful to have a Public Relations Officer at district headquarters, functioning for the different departments, who can be approached by aggrieved persons. He should have the duty of giving information and advice regarding matters concerning the police administration.

The Administrative Reforms Committee appointed by the

Government of Rajasthan recommended the appointment of District Public Relations Committee in place of several advisory committees at the district level. With regard to the functions and composition of the committees the report says : 'It would be desirable to have one representative committee to bring to the notice of the administration the problems and difficulties of the people which are of a general nature, and to suggest possible methods of improving the functioning of government departments at the district level and below. It must be emphasized that matters which are discussed in these committees should strictly be of a general nature, and no reference should be made to individual cases which should be referred to the competent officers separately for necessary action.

The membership of these committees should be as follows : (a) Collector and District Magistrate (Convenor); (b) The Member of Parliament representing the largest portion of the district; (c) Superintendent of Police; (d) The Member of the State Legislature, who may be selected by rotation; (e) The Pramukh and other member of the Zila Parishad to be nominated by the Zila Parishad. He should, however, not be a member of Parliament or of the State Legislature; (f) One Chairman of a Municipal Board in the district to be elected by the Chairmen of all Municipal Boards from amongst themselves; (g) Three non-official members not affiliated to any political party. These should preferably be nominated from amongst the interests representing Agriculture, Industries and Commerce, Labour, Education and one from amongst retired government servants residing in the district. The district level officers concerned may be requested to attend meetings of the committee on invitation whenever matters relating to their departments are discussed.

The committee also recommended that for cities with a population of more than one lakh souls, there should be a separate committee to advise the administration on problems relating to the city. The composition of these committees should be : (a) Collector (Convenor); (b) Members of Parliament elected from the city; (c) Members of the State Legislative Assembly elected from the city constituencies; (d) Superintendent of Police; (e) Chairman of the Municipal Board; (f) Representative of the District Industries Association; (g) Representative of the District Chamber of Commerce; (h) Representative of the Labour; (i) Representative of the Educational Institution in the city; and (j) one lady member of the Municipal Board nominated by the Board.

#### INFORMATION AND PUBLICITY IN U. P.

The main function of the Information Department is to acquaint the people with the multi-farious activities of the Government and to keep the Government in touch with the opinions of the



people and their reactions to its policies and measures. The means of publicity employed include journals and pamphlets, press notes and other despatches to the press, photographs, films, the radio, etc. Facilities are also provided to press men and certain literary figures of the State to visit sites of different development projects. The Publications Bureau of the Department produces and distributes publications of an informative nature as well as of cultural importance. Literature pertaining to activities of various government departments which includes pamphlets, charts, folders, posters, leaflets etc., is distributed free of cost. The Bureau also brings out every year a Diary and Soochna Panchang, besides publishing the following journals : (i) Uttar Pradesh, Hindi monthly; and (ii) Naya Daur, Urdu monthly. In addition to the regular publications, the Bureau brought out in a single year (1972) 50 booklets, 10 folders and 4 posters.

The Information Department also organises press publicity. This collects publicity material from the various departments of the government and issues press notes. It also makes available to the Lucknow broadcasting station of the Akashvani suitable and useful material for regional publicity. This work is carried on by the Press Information Bureau. Further, there is a net-work of Information Centres at district level and a number of them at Tehsil headquarters as well under the Information Department. The Department had posted in all districts of the State. District Information Officers, who carried on much of the publicity work. But some years back these offices were amalgamated with the department of Health and Family Planning. Once again the offices have been revived. The department has a number of information centres, many of which also have libraries and reading rooms. It also has a network of radio sets in villages. The Department also makes use of the following media in order to fulfil its objects : (1) film shows, (2) Kisan Melas and exhibitions, (3) press tours, etc. The Film Division of the department has undertaken the production of newsreels and documentaries. Here mention may be made of the following : (i) State help to the backward classes, (ii) Jamuna Hydel Project, and (iii) twenty-five years of freedom. With a view to keeping the Government in touch with news and opinions published in the press, there is a scrutiny section, which examines copies of newspapers, etc., and submits cuttings and reports. For the purpose of maintaining close contact between the State Government and the Press, there is the U. P. Press Committee.

#### INFORMATION AND PUBLIC

#### RELATIONS DEPARTMENT—ANDHRA PRADESH

With a view to promoting better understanding between the government machinery and the public, and to improve the efficiency

of the Information and Public Relations Department, the Government of Andhra Pradesh has decided as follows : At the State Headquarters, the Joint Secretary to Government would be the ex-officio Director of Information and Public Relations assisted by two Joint Directors—one for the Information Wing and the other for the Public Relations Wing including Tourism. There will be six main divisions under the Information Wing, each of which will be in charge of a Deputy Director. Similarly, there will be five main divisions under the Public Relations Wing each of which also will be in charge of a Deputy Director. Each such division consists of a news Section covering quite a few important items of activity and each of such Sections shall be managed by an Assistant Director. In addition to the Section Officer, there will be 10 Information Officers to be attached to Ministers, their Secretariat and Departments.

At the district level there will be two Assistant Directors—one each for Information and Public Relations and the Personal Assistant to the Collector would be designated as ex-officio Deputy Director, Information and Public Relations, who will be a nominal head of the district office to coordinate the work of the two Assistant Directors and will be the Chief Officer to maintain liaison between Department for Information and Public Relations and other Departments. The Community Centres at the village level will be run by a Committee, for the time being, nominated by the Block Development Officer, who will be the ex-officio Block Level Public Relations Officer. The concerned Village Level Worker and the Grama Sevika shall be the Liaison Officers between the public and the community centres as well as between the community centres and the Block establishments.

#### PUBLICITY DEPARTMENT IN MADHYA PRADESH

The State Council of Ministers has approved the proposal for reorganising the State's Directorate of Information and Publicity. The revised set-up, which will take effect immediately, envisages upgrading of district and divisional offices of the Directorate and a rational regrouping of various sections at the headquarters. The headquarters of the Directorate will be divided into five sections, viz., the Press and Public Relations Section, the Field Publicity Section, the Publications Section, the Advertisement Section and the Administration Section. The eight divisional offices will be headed by Deputy Directors. Five of the divisional offices will have an Assistant Director each and the remaining three a Public Relations Officer each to assist the Deputy Director. All major districts, which are at present under the charge of Public Relations Officers, will be staffed by Assistant Directors while the minor districts, with Assistant Public Relations Officers, will now be headed by Public Relations Officers.

## CHAPTER XXI

# REDRESS OF CITIZEN'S GRIEVANCES

### I. CITIZEN'S GRIEVANCES

Although the administrative malpractices are probably as old as the inception of government, yet the problem of controlling them was never so serious as today. The enormous expansion of public services, both in size and range, affecting the citizen's everyday life has brought the problem of controlling government administration to the forefront. The acceptance of 'Socialist Pattern of Society', 'Planning', and 'Development' as the goal has automatically resulted in the extension of bureaucracy. The national budgets in almost all the countries have thus grown larger and larger and the number of government employees more and more. The expansion of bureaucracy results in the multiplication of the administrative processes whereby administrative power and discretion are vested at different levels of the executive. And where there is power and discretion, there is always the possibility of abuse, more so when the power and discretion have to be exercised in the context of scarcity and controls and pressure to spend public money, as in India.

The Law Commission pointed out in its fourteenth report that there is a vast field of administrative action in India in which administrative authority may act outside the strict scope of law and propriety without the injured citizen being in a position to obtain effective redress. 'Discretionary powers are exercised by different categories of Government servants, all of whom are not endowed with a high sense of dedication and integrity in equal measure. There is scope for harassment, malpractices and corruption in the exercise of discretionary powers. The increase in the scope and direction of governmental powers has been accompanied by an increase in the volume of legislation and executive orders and in their extension to new areas. The powers granted by Parliament to Government have tended to become more and more discretionary.

Besides the growth in discretionary powers and delegated legislation, powers of the executive have increased as 'dispensers of justice' also. In India, as in many countries, there has been a phenomenal rise in the number of administrative tribunals and the amount of administrative adjudication. According to a statement of the Union

Law Minister in 1958, there were as many as 100 tribunals operating under the Central Acts alone in India. Justice administered by administrative tribunals has the merit of directness, expedition, freedom from the bounds of purely technical rules and consequent ability to give effect to legislatively expressed policy. But decisions of such tribunals are not reviewable by courts on merits and are reviewable only on grounds like : (a) lack or excess of jurisdiction, (b) failure to adhere to principles of natural justice of fair hearing, (c) bias, (d) error apparent on the face of the record, and (e) failure to observe the prescribed procedure.

'All these problems—executive discretion, delegated legislation and administrative adjudication—are closely related to the problem of redress of citizen's grievances. Though universal in character, this problem is more pressing in countries like India which recently became free from the foreign rule. In advanced democracies, non-legal institutions like political parties, pressure groups, press, etc. are a vital source of control of administrative action and exert a very sobering influence on public administration. Thus extra-constitutional machinery is weak in India.'<sup>1</sup>

The above is only one—general aspect of citizen's grievances. Most of the citizens come in contact with the district administration, which is much more important than the State or local administrations so far as the nature and scope of citizens' grievances are concerned. Dr. A. Avasthi, on the basis of his study 'Public Grievances Pattern in Sagar District' says that the quantum of public grievances vis-a-vis district administration is not at rate which may be by-passed. It necessitates immediate attention. It has been possible to evolve a working classification of public grievances. This may be laid down as under : (1) Structural, and (2) Others. The set of public grievances in the first group emanates from the administrative structure itself. The responsibility of the officials involved in this respect is found exceeding not beyond desirability. Nevertheless, the public as a consequence is aggrieved. The ameliorative factors would, in such instances, be found at policy level.

These may further be subdivided into three categories :

(i) *Procedural Grievances.* During the course of investigation instances have come to light when service provided to the public has been extraordinarily delayed or has been altogether denied. For example, land allotment, because of its inter-twined procedure, is delayed to the extent that it gives a feeling to the applicant that his application has been rejected.

(ii) *Grievances because of Lack of Coordination.* In view of the complex organisation through which the administration of the

<sup>1</sup> S. N. Chaturvedi, 'Machinery for Redress of Citizen's Grievances', *I. J. P. A.*, 636-38.

district is processed, effective and prompt service demands coordination. The coordination involved may be of both types : intra-departmental coordination and inter-departmental coordination.

(iii) *Grievances Arising out of Workload.* It was emphatically stated by the officials that they were hard pressed because of mounting work. They claim that the heavy workload which they are made to cope with has grossly undermined their efficiency. As a result there is always a spill-over of routine work and matters even of urgent nature have to be kept pending.

The other group of public grievances includes those instances which are squarely avoidable. Such avoidable grievances are :

(i) *Discourtesy.* The public members who transact business with the administrative departments are treated by the officials in a manner which is not very satisfying. The public members, in fact, turn to offices when the work which they have is not completed in the routine course. When the faith of the public members is shaken in the efficacy of procedures they tend to take to personal efforts and visits to the departments. On such visits or on the initial visits they expect that they would receive courteous treatment even if the work may not be completed.

(ii) *Intentional Delays.* Delays in the administrative organisations seem to have crept in institutional proportions. Apart from delays caused by the administrative structure there are intentional delays for which only the officials are to blame. Intentional delays are primarily prompted by two factors. *Firstly*, some of the officials experience inner satisfaction when public members orbit around them to get their work done. *Secondly*, the delays can and do peter out of variety of material and non-material gains. For example, a particular case came into light during the course of investigation about demarcation of land. It was allotted by the revenue department but demarcation was not done for over two years as the opposite interested party was in league with certain officials.

(iii) *Irregularities Committed for Non-material Gains.* Partiality and favouritism allowed in the discharge of official duties for non-material gains come under this category. A good number of public grievances has been arising only because of this factor. A well-dressed or educated man, as it usually happens, gets preference in getting a certain service from the administrative department over a person who is less educated and less articulate. A similar preferential treatment is frequently allowed to acquaintances and politically articulate persons. Such discriminatory dealings are usually prompted by several reasons. This forestalls any possible complications or difficulties that the official may have to face otherwise. Persons with political backing may in case of delay create trouble in the high-ups. It is sometimes believed that to be in good

books of influential and well-placed persons is advantageous in the long-term.

(iv) *Graft*. The illegal gratification or graft here includes both cash and kind. Public grievances in respect to graft are most widespread. It is taken nearly as a normal part of transaction with the administrative departments. Instances have been quoted when part of the calamity relief has been scrapped out and retained by the officials.<sup>1</sup>

There is no doubt that corruption is now widely prevalent in the country. As a matter of fact delay in administrative action is caused in a considerable measure by government officials and employees for extorting bribes from the people. In other words, many people offer bribe for the sake of avoiding delay and unnecessary expenses. The prevailing corruption in our country has been described as the 'ulcer in the stomach of India's administration' in the Santhanam Committee Report. The race for power and political spoils has led to the emergence of corruption in a big way in the country. It has become so deep-rooted and extensive that it has manifested itself into innumerable kinds and extended itself to every profession and walk of life. Therefore, the need for seeking new and effective means of redressal of citizens' grievances has gained added urgency.

In addition to the above, we would briefly refer to citizens' grievances in three other fields :

*First*, a general complaint today is that in government offices, letters from the public are not acknowledged or replies sent in due time. This is the worst kind of inefficiency and laziness. Administration lacks even common courtesy, since reasonable enquiries and requests from the public are not promptly replied to. Letters from even responsible citizens are brushed aside. This is absolutely a wrong attitude and earns unpopularity for the whole administration.

*Second*, in the field of rationing there are generally complaints regarding shortage of articles, quality of articles, over-charging on controlled items and refusal to supply the commodities. There are also complaints regarding allotment of fair price shops, issue of ration cards to poor people, increase in allotment of quota, etc.

*Third*, governments all over the world have to receive payments and disburse funds. Expanding government activities have multiplied the source of receipts and points as well as frequency of disbursement. Developed countries with a widespread network of banking system have undertaken these transactions with the help of banks. In India, treasuries at the district and tehsil headquarters have been performing these functions, for well over a century. With the growth of and diversification of government

<sup>1</sup> I. J. P. A., July-September 1975, 444-49.

functions, the scope and range of activities of the treasuries have multiplied sevenfold. Procedures for payments and receipts have also become long-drawn and cumbersome. After the ARC report, some States have decided to pay pensions etc. through the postal system. Departmental payments and receipts are also undertaken in limited areas of the government like Central Revenues, Food Trading Corporation, public enterprises and so on. But the bulk of payments and receipts are still carried on through the traditional net-work of treasuries causing untold hardships to the citizens.

## II. METHODS OF REDRESSING CITIZENS' GRIEVANCES

In France and certain other countries there exists a system of courts empowered to deal with disputes between individuals and the administration, which is separate from the hierarchy of ordinary courts. This is the system of administrative law (*droit administratif*) and administrative courts, which has been discussed in Chapter 18. Moreover, the system provides an effective machinery for settling disputes arising between the citizens and the administration, but it is not exactly meant for removing the grievances of the citizens, as have been discussed in the preceding section.

Procurator system plays an important part in securing the redress of citizens' grievances and ensuring observance of legality at all levels of the administration in the USSR and East European countries. The procuracy performs a variety of functions including the prosecution of crimes, supervision over legality in the activity of the investigating agencies, supervision over judicial sentences and judgments, supervision over the legality of the execution of sentences and supervision over the legality of detention of prisoners. However, its most important function is that of 'general supervision', a two-fold task consisting of: (a) Supervision over conformity of the subordinate legislation of ministries and other governmental agencies with various higher laws and decrees; and (b) supervision over the strict execution of laws by officials and citizens. Article 113 of the Russian Constitution gives a general mandate to the Procurator's Office to prevent Soviet governmental bodies from exceeding their powers.

A typical Scandinavian institution which has aroused a world-wide interest is the institution of Ombudsman. It has been adopted in North European countries such as Finland and Norway. Their systems have a common characteristic in that their goal is the achievement of democratization of public administration and the effecting of improvement in existing legislation or administrative operation by means of suggestions and advice by Ombudsman, although they differ in character, in scope and strength of authority. The Ombudsman is established as an instrument of Parliament for the supervision and control of the administration. He is both in form and practice

independent of the Government; he is also independent of Parliament in the performance of his duties. Parliament is only entitled to lay down general rules for his activities. The Ombudsman is not only an instrument for supervising the administration, but also a protector of the rights of individuals. Non-partisan nature of the office makes it possible for the Ombudsman to undertake a non-partisan review. Though his review is primarily a grievance review, it can also be quasi-judicial in character. The investigations of the Ombudsman are conducted informally. In investigating complaints, the Ombudsman has free access to all the files of the administration and he can demand explanations from the officials or authorities concerned. Administrative tribunals and courts, on the other hand, are bound by formal rules in hearing cases and have limited powers of inspection.

In his capacity as Commissioner of Parliament the Ombudsman supervises the observance of law and statutes. He can intervene in all cases of illegal or improper conduct of officials. He investigates complaints against administrative decisions as well as complaints of official misbehaviour, inefficiency or negligence. His work is carried out in the following ways : (1) By suggestions or advice in cases involving the improvement of administrative operations, and for furthering the proper execution of existing legislation. (2) By direction or orders in cases involving requests for the taking of disciplinary measures against public officials of administrative agencies or of the Public Procurator's office. (3) By notification or report in case of giving notification or reporting upon defects in existing legislation to the Minister concerned or to the house of Parliament.

In the Indian system, the existing remedies against administrative acts may be grouped under administrative, legislative and judicial heads. The administrative remedies against the illegal exercise of power or abuse of authority are the departmental reviews both on complaints made by a citizen or an injured civil servant or on the initiative of the seniors themselves. The Government has also established the office of the Central Vigilance Commission to eliminate corruption and other malaise of the civil service in India. The legislative remedies are the various parliamentary devices including the Committees through which the functioning of the executive is reviewed in the Houses of Parliament. Thus information is elicited from the executive in the 'Question Hour'; public grievances are ventilated in debates on the budget; and policy is criticised through motions and resolutions.

Apart from the administrative and legislative remedies, the judicial remedies against the administration include : (a) suits against the Government for quashing of its orders, reinstatement of officials, arrears of salaries and damages, (b) prosecution of the offending servants with the approval of the government, and (c) writ jurisdic-



tion of the Supreme Court and the High Courts which has the effect of quashing administrative orders, prohibiting administration from proceeding with a case or an order, or command to perform a public duty. These remedies are available for cases between the State and its employees, or the State and the citizens.

There is also another agency for grievances for a special class of people in the country. Under the Constitution, the Commissioner for the Scheduled Castes and the Scheduled Tribes has been appointed to evaluate the implementation of safeguards provided for these weaker sections. Like the Scandinavian Ombudsman, he also hears a large number of complaints and grievances from the people. The Commissioner, for instance, made repeated complaints about the manner in which the cases relating to the eradication of untouchability were filed by the police before the courts and handled by the judiciary.<sup>1</sup>

Satisfactory cure of the citizen's grievances in India today requires not one but many-sided institutional, procedural and functional reforms. For more than a decade there has been a country-wide interest in the problem, as is evident from the fact that the recommendations of the Mathur Committee to appoint an Ombudsman for Rajasthan, and the appointment of a Central Vigilance Commission as recommended by the Santhanam Committee. The recent experiments with the institution of the Central Vigilance Commission and the prospective Ombudsman have been very much in the picture.

P. B. Gajendragadkar, a former Chief Justice of India, expressed the view : 'It is, however, doubtful if the Vigilance Commission as it has been constituted at present, the limitation under which it has to function and the narrow sphere of its jurisdiction would make it half as effective as it is expected to be. I would, therefore, earnestly request political thinkers and public workers to address themselves to the question as to whether it would be desirable to evolve an institution like the Ombudsman in our country. I realise that India is a very big country and the institution of an Ombudsman cannot be copied blindly from the Scandinavian country where it has worked satisfactorily. Instead of Ombudsman, you may have a Commission and its jurisdiction, functions and powers may have to be carefully determined in the light of the relevant constitutional provisions. But unless we evolve an institution like Ombudsman and give that institution a very high constitutional status by amending the Constitution, the problem will not be effectively tackled.'<sup>2</sup>

In India, the problem, therefore, is not quite so simple. The non-informed character of the general mass of the population, the

<sup>1</sup> R. B. Jain, 'The Ombudsman : A Super Administrator or a Grievance Man', *I. J. P. A.*, July-September 1975, 522-23.

<sup>2</sup> P. B. Gajendragadkar, *Law, Liberty and Social Justice*, 144.

illiteracy and the apathy of the people make the position extremely difficult and delicate. The vast administration and its officers very often seem to go their own way and they do not seem to be alive to the grievances of the ordinary people. The International Commission of Jurists set up a Committee to discuss the need for an Ombudsman in the Asian and Pacific regions. Their proposals were that there should be an Ombudsman with powers declared and defined by an Act constituting the office, but his powers of investigation should not extend to Head of State and Judges or to matters of discipline in the armed forces. It is even suggested by this Committee that the Ombudsman should deal not only with the complaints by any aggrieved person but also take up any matter on his own initiative. In other words, this Ombudsman will be both an accusatorial and inquisitorial institution, a combination unprecedented in a democracy with traditions of independent judiciary.<sup>1</sup>

The matter was examined by the high powered Administrative Reforms Commission, which presented its Interim Report on 'Problems of Redress of Citizen's Grievances' to the President on 30 October 1966. The Commission was so much impressed by both the unanimity and the strength of the popular demand on this subject that it devoted itself to the problem rather than from a separate group for the specific purpose of devising a scheme to enable the citizen to seek redress for an administrative injustice. The important findings/recommendations of the Commission may be summarised as follows :

(1) There is no doubt that an urgent solution of this problem will strengthen the hands of Government in administering the laws of the land, its policies 'without fear or favour, affection or ill-will' and enable it to gain public faith and confidence without which special and economic progress would be impossible. There is an oft-expressed public outcry against the prevalence of corruption, the existence of wide-spread inefficiency and the unresponsiveness of administration to popular needs. The answer to this outcry lies not in expressions or reiteration of Government's general satisfaction with the administration's achievements or its attempts generally to justify itself but in the provision of a machinery which will examine such complaints and sift the genuine from the false or the untenable so that administration's failures and achievements can be publicly viewed in their correct perspective.

(2) An institution for the removal of a prevailing or lingering sense of injustice springing from an administrative act is the *sine qua non* of a popular administration. Democracy has been defined as 'Government of the people by the people, for the people.' Thus, one of the main obligations of democracy is to secure a 'government

<sup>1</sup> P. B. Mukerji, 'Grievance-Man-Ombudsman, Lokayukta and Lokpal', *I. J. P. A.*, July-September 1971, 408-409.

for the people' this is not merely a slogan but a philosophical concept. Such a concept can be translated into action by a democratic Government, not merely by displaying an attitude of benevolence or enlightened interest in the well-being of the people but also by specific measures calculated to secure all-round contentment and satisfaction with the policies of government and their implementation.

(3) The doctrine of ministerial responsibility to Parliament has been one of the most frequently used weapons by Parliament to keep the administration on the alert and to achieve the desired standard of probity, propriety and efficiency in administration. Citizens have attracted Parliamentary attention to their grievances through the Members of Parliament who have utilized procedures, such as interpellations, adjournment motions, calling attention notices and half-an-hour and other discussions to ventilate important matters of public grievances or to question the propriety of policies or measures or actions taken by Government or Governmental Institutions and Undertakings.

(4) Parliament, through its Committee on Petitions, has provided another forum for the citizens to secure redress against an act of injustice, but this procedure is available only in a limited category and number of cases. On the whole, parliamentary procedure is more suited for the consideration of matters of public importance than for obtaining redress of individual grievances arising in the course of day-to-day governmental administration.

(5) For the redress of his grievances, the individual is entitled to approach judicial or administrative authorities at different levels in their original, appellate, revisional or supervisory jurisdiction. The administrative orders which affect the individual are, *Firstly*, those that are passed in the exercise of statutory responsibilities and are subject to appeal or revision or redress in a Court of Law or before administrative tribunals or before higher departmental authorities; in some cases they are final at the stage at which the relevant statute makes it so. In the last case, there is virtually no statutory remedy open to a citizen against that final order. *Secondly*, there are administrative orders which are passed in the exercise of discretion in the field of executive authority, by Government or authorities subordinate to it. Such orders may be open to question either on the ground of misuse or abuse of power or on the ground of having been influenced by ulterior motives or extraneous considerations or as a result of error of judgement, negligence, inefficiency or even perversity. These are generally matters in which the citizens' forum for redress of grievances is a superior authority in the official hierarchy; in some matters he may be able to secure justice through Parliament.

(6) The main issue is how to provide the citizen with an institution to which he can have easy access for the redress of his

grievances and which he is unable to seek elsewhere. In the circumstances of today with the expanding activities of Government, the exercise of discretion by administrative authorities, howsoever large the field may be, cannot be done away with nor can it be rigidly regulated by instructions, orders or resolutions. The need for ensuring the rectitude of the administrative machinery in this vast discretionary field is not only obvious but paramount. Where the citizen can establish the genuineness of his case, it is plainly the duty of the State to set right the wrong done to him. The need for giving this approach a concrete form arises from the fact that parliamentary supervision by itself cannot fully ensure to the citizen that rectitude over the entire area covered by administrative discretion; nor have the various administrative tiers and hierarchies proved adequate for the purpose.

(7) During the last decade, there has been intensive discussion in this country in and outside Parliament about the specific problems of establishment of an effective machinery to look into the grievances of individuals against the administration. The study of the institution of Ombudsman in Scandinavian countries and of the Parliamentary Commissioner in New Zealand and of the working of these functionaries convinced that these institutions can be suitably adapted for India's needs. These institutions are, generally a supplement to the parliamentary control, independent of any political affiliations, outside the normal administrative hierarchy, and free from the formalism, publicity and delays associated with governmental machinery. They work unobtrusively to remove the sense of injustice from the mind of the adversely affected citizen and yet uphold in a very large measure the prestige and authority of the administration, instilling public confidence in its efficiency and faith in its working and introducing a proper perspective of it in the mind of the public.

(8) The special circumstances relating to our country can be fully met by providing for two special institutions for the redress of citizens' grievances. There should be one authority dealing with complaints against the administrative acts of Ministers or Secretaries to Government at the Centre and in the States. There should be another authority in each State and at the Centre for dealing with complaints against the administrative acts of other officials. All these authorities should be independent of the executive as well as the legislature and the judiciary. The setting up of these authorities should not, however, be taken to be a complete answer to the problem of redress of citizens' grievances. They only provide the ultimate set-up for such redress as has not been available through the normal departmental or governmental machinery and do not absolve the department from fulfilling its obligations to the citizen for administering its affairs without generating, as far as possible,

any legitimate sense of grievance. Thus, the administration itself must play the major role in reducing the area of grievances and providing remedies wherever necessary and feasible. For this purpose there should be established in each Ministry or Department, as the case may be, suitable machinery for the receipt and investigation of complaints and for setting in motion, where necessary, the administrative process for providing remedies.

(9) The authority dealing with complaints of Ministers and Secretaries of Government may be designated 'Lokpal' and the other authorities at the Centre and in the States empowered to deal with complaints against other officials may be designated 'Lokayukta'. The Secretaries' actions have also been included in the jurisdiction of Lokpal because, it might often be difficult to decide where the role of Secretary ends and that of the Minister begins.

(10) The following should be the main features of the institutions of Lokpal and Lokayukta : (a) They should be demonstrably independent and impartial ; (b) Their investigations and proceedings should be conducted in private and should be informal in character ; (c) Their appointment should, as far as possible, be non-political ; (d) Their status should compare with the highest judicial functionaries in the country ; (e) They should deal with matters in the discretionary field involving acts of injustice, corruption of favouritism ; (f) Their proceedings should not be subject to judicial interference and they should have the maximum latitude and powers in obtaining information relevant to their duties; and (g) They should not look forward to any benefit or pecuniary advantage from the executive Government.

(11) The Lokpal should be appointed by the President on the advice of the Prime Minister, which would be tendered by him after consultation with the Chief Justice of India and the Leader of the Opposition. If there be no such leader, the Prime Minister will instead consult a person elected by the members of the Opposition in the Lok Sabha in such manner as the Speaker may direct. The Lokpal will have the same status as the Chief Justice of India. His tenure will be 5 years subject to eligibility for reappointment for another term of five years in accordance with the same procedure. He may, by writing under his hand, addressed to the President, resign his office. He will not be removable from office except in the manner prescribed in the Constitution for the removal from office of a Judge of the Supreme Court. His salary and other emoluments will be the same as those of the Chief Justice of India.

(12) The Lokpal will have the power to investigate an administrative act done by or with the approval of a Minister or a Secretary to Government at the Centre or in the State, if a complaint is made against such an act by a person who is affected by it and who claims to have suffered an injustice on that account. (In this context, an

act would include a failure to take action). Such a complaint may be made either by an individual or by a corporation. He may in his discretion inquire into a complaint of maladministration involving not only an act of injustice but also an allegation of favouritism to any person (including a corporation) or of the accrual of personal benefit or gain to the administrative authority responsible for the act, namely, a Minister or a Secretary to Government at the Centre or in the States.

(13) The following matters shall, however, be excluded from the purview of the Lokpal : (a) Action taken in a matter certified by a Minister as affecting the relations or dealings between the Government of India and any foreign Government or any international organization of States or Governments. (b) Action taken under the Extradition Act, 1962 or Foreigners Act, 1956. (c) Action taken for the purpose of investigating crime or protecting the security of the State including action taken with respect to passports. (d) Action taken in the exercise of power in relation to determining whether a matter shall go to the Court. (e) Action taken in matters which arise out of the terms of contract governing purely commercial relations of the administration with customers or suppliers except complaints of harassment or delays in the performance of contractual obligations. (f) Action taken in respect of appointments, removals, pay, discipline, superannuation or other personnel matters, etc.

(14) On receipt of a complaint from a person claiming to have suffered an injustice through an administrative act for which a Minister or a Secretary to Government is finally responsible, the Lokpal will scrutinize it and come to a conclusion as to whether he has jurisdiction to deal with it and if so, whether the case is worth investigation. If his conclusion is in the negative on either of these points, he will reject the complaint and inform the complainant accordingly. If he decides to take up the investigation, he will, in the first instance, communicate the complaint to the administration and invite the administration's comments thereon. The Lokpal on receipt of the administration's comments will decide whether the complaint is actionable and inform the complainant in case the faulty decision has been rectified or he has decided not to take any further action. In a case in which he decides to proceed with the investigation, if on its completion, the Lokpal is satisfied that there is no cause for grievance, he will inform the complainant accordingly and close the case. If, however, he considers that an injustice has been done to the complainant, he will suggest to the administration remedial action where it is possible for it to provide the remedy. If his recommendation is accepted, the case will then be closed. If, however, the recommendation is not accepted, it will be open to him to make a report on the case to the Prime Minister or Chief Minister of the State as the case may be.

(15) The Lokpal will have powers of a court with regard to the calling of witnesses, documents, etc. In regard to information available with Government or subordinate authorities, he shall have access to whatever information, document, etc., he requires and no privilege will be claimed for any such information or document except when it affects the security of the State or foreign relations. However, it is expected that the exercise of the powers as a court will be unnecessary and that the Lokpal's procedure would be as informal as possible. The investigation by the Lokpal will be conducted in private. Nothing relating to the investigations shall be published or caused to be published by him till the enquiry is completed and his findings are communicated to the complainant, or to the Legislature. Publication of any matter pending before the Lokpal or decided by him save to the extent that it is included in the ad hoc or annual report or is permitted by the Lokpal should be an offence under the relevant law.

(16) At the beginning of each year the Lokpal will submit a report to the Legislature concerned on his activities during the previous year. Besides giving a summary of the cases disposed of by him, he may indicate the need for amending any law in order to remove occasions for unintended hardship experienced as a result of the administration of the existing law.

(17) Lokayukta would be concerned with problems similar to those which would face the Lokpal in respect of Ministers and Secretaries though, in respect of action taken at subordinate levels of official hierarchy, he would in many cases have to refer complainants at higher levels. His powers, functions and procedures may be prescribed *mutatis mutandis* with those laid down for the Lokpal. His status, position, emoluments, etc. should, however, be analogous to those of a Chief Justice of High Court and he should be entitled to have free access to Secretary to the Government concerned or to the Head of the Department with whom he will mostly have to deal to secure justice for a deserving citizen. Where he is dissatisfied with the action taken by the department concerned, he should be in a position to seek a quick corrective action from the Ministers or the Secretary concerned, failing which he should be able to draw the personal attention of the Prime Minister or the Chief Minister as the case may be.

(18) For the Lokpal to be fully effective and for him to acquire power, without conflict with other functionaries under the Constitution, it would be necessary to give a constitutional status to this office, his powers, functions, etc. But, however, it is not necessary for the Government to wait for this to materialize before setting up the office. The Lokpal would be able to function in a large number of cases without the definition of his position under the Constitution. The constitutional amendment and any

consequential modification of the relevant statute can follow. In the meantime, Government can ensure that the Lokpal or Lokayukta is appointed and takes preparatory action to set up his office, to lay down his procedures, etc. and commence his work to such extent as he can without the constitutional provisions.

### III. LOKPAL AND LOKAYUKTA

#### APPOINTMENT AND REMOVAL

The original Bill contemplates Ombudsman at two levels. At one level is the Lokpal who is to investigate any action which is taken by or with the general or specific approval of a Minister, or a Secretary or any other public servant of a class or a sub-class of public servants notified by the Central Government in consultation with Lokpal in this behalf. At the second level is the Lokayukta or two Lokayuktas to investigate any action taken by or with the general or specific approval of any public servant not being a Minister, Secretary or other public servant whose action could be investigated by the Lokpal. The Bill provides that Lokpal is to be appointed by the President of India in consultation with the Chief Justice of India and the leader of the opposition in Lok Sabha. The Lokayukta is to be appointed by the President after consultation with the Lokpal. Before entering the office, they are expected to take an oath of affirmation set out for the purpose in the first schedule of the Bill. They cannot simultaneously be members of the Parliament or State Legislature. They cannot hold any other office of trust or profit or carry on any business. They can also not be connected with any political parties. They are to be appointed for a fixed term of five years. They are not eligible for reappointment. They can resign from their office by writing to the President. They may be removed from the office by the President only on grounds of misbehaviour or incapacity. The procedure for such removal is the same as that for the Judges of the Supreme Court or the High Court.

#### PROCEDURE FOR INVESTIGATION

For the purpose of convenient disposal of investigation, the Lokpal may issue such general or special direction to the Lokayukta as he considers necessary. Thus the Lokayukta shall be subject to the administrative control of the Lokpal. However, the Lokpal has no right to question any finding, conclusion or recommendations of a Lokayukta. The Bill provides that a complaint can be lodged to the Lokpal or the Lokayukta, *firstly*, in the case of a grievance by the person aggrieved, and *secondly*, in the case of an allegation by any person other than a public servant. The Lokpal or the Lokayukta may, in his discretion,



refuse to investigate any complaint involving a grievance or an allegation. However, if he decides to investigate a complaint, he shall forward a copy of the complaint, along with the grounds thereof to the relevant public authority concerned. He shall also give him an opportunity to offer his comments on such complaints or statement. The procedure for conducting an investigation by the Lokpal or the Lokayukta is to be such as he considers appropriate in the circumstances of the case. The identity of the complainant and the identity of the public servant affected by the investigation is not to be disclosed to the press or the public either before or after the investigation.

Under the Bill the Lokpal or the Lokayukta may require any public servant or any person who in his opinion is able to furnish information or produce documents relevant to the investigation. He has all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 in respect of certain matters. Similarly, any proceedings before the Lokpal or the Lokayukta shall be deemed to be judicial proceedings within the meaning of Section 193 of the Indian Penal Code. The Bill, however, provides that no person shall be required or authorised to furnish any information or answer any question or produce any document, which might prejudice the security or defence or international relation of India, or the investigation or detection of crime, or which might involve the disclosure of proceedings of the Cabinet or any committee of the Cabinet of the Government of India.

#### PROCEDURE FOR CORRECTIVE MEASURES AND REPORT

The Bill provides that if, after investigation of any grievance, the Lokpal or Lokayukta is satisfied that such action has resulted in injustice to the complainant, or any other person, he shall, by a report in writing, recommend to the public servant and the competent authority concerned that such injustice shall be remedied in such manner and within such time as may be specified in the report. The competent authority to whom such a report is sent shall, within a month of the term specified in the report, intimate or cause to be intimated to the Lokpal or Lokayukta, the action taken in compliance with the report.

The Bill also provides that if after investigation of an allegation the Lokpal or Lokayukta is satisfied that such allegation can be substantiated either wholly or partly, he shall give a report in writing, communicating his findings, along with the relevant documents, material and other evidence to the competent authority. The competent authority shall examine such a report and intimate to the Lokpal or Lokayukta within three months of the date of the receipt of the report the action taken or proposed to be taken on

the basis of the report. If the Lokpal or Lokayukta is satisfied with the action taken or proposed to be taken on the recommendation or findings contained in his report, he shall inform the complainant accordingly and close the case. But if he is not satisfied and considers that the case deserves, he may make a special report upon the case to the President and may also at his discretion inform the complainant concerned. But no such report is to be made in respect of any action taken in consultation with the Union Public Service Commission.

The Lokpal shall present annually a consolidated report on the performance of his functions to the President. Any such report or a special report containing any adverse comment against any person or a department or organisation shall also contain the substance of the defence adduced by the person complained against the comments made by or on behalf of department or organisation affected. A copy of the report together with the explanatory memorandum is to be laid before each House of Parliament. Thus the Bill makes sufficient provisions for ensuring the independence and impartiality of the Lokpal or the Lokayukta. He shall himself decide the procedure for conducting an investigation. He can call for any person or paper and document. He shall see to it that the competent authority takes effective steps on his report in respect of a grievance or an allegation. The action of the competent authority should satisfy him. Otherwise, he shall make a special report to President upon the case concerned.

But scathing criticisms were launched against any system of Indian Ombudsman. To Justice P. B. Mukharji, the names Lokpal and Lokayukta are not only flamboyant but also dangerously pretensions. Such Ombudsman is not quite a Supreme Court or a High Court judge; he shall have only the pretensions of that office's conditions of service. By reason of his proposed method of appointment, he cannot be responsible to Parliament, or State Legislatures, and he is expected to be a watch-dog of erring ministers and officials.

*Secondly*, one Lokpal for the entire country will necessarily be a captive of unmanageably numerous files and dossiers, and inescapably dependent on a whole miscellaneous army of subordinates and self-proliferating secretariat. All the States of India will have their separate Ombudsman. Each of them will have his numerous subordinates and staff of filing and noting clerks. This will constitute a formidable array of administration, expensive, dilatory, and hide-bound by red-tape.

*Thirdly*, the system is not only impractical, it is also against the whole tenor and set-up of the present Indian Constitution. It will involve undesirable re-adjustment of existing constitutional values in relation to Parliament, State legislatures and Judges of the

Supreme Court and the High Court. An Ombudsman to him is contrary to the basic spirit of the Indian Constitution. He goes to the extent of stating that unless one is prepared to throw the whole Indian Constitution lock, stock and barrel overboard, an Ombudsman cannot fit into the Indian Constitution. It will, according to him, denigrate the judiciary, the Parliament and the State Legislatures.

The proposed Indian Ombudsman has also been criticised from some purely practical points of view. The institution of Ombudsman, it is said, has been successful only in small countries with small and comparatively homogeneous population. India is a big country with big and heterogeneous population, which is very badly suffering from parochialism. The Indian administration is also suffering from the vices of corruption, nepotism, favouritism, parochialism, indifference and negligence. Thus the occasions for citizen's grievances are innumerable. Naturally, the Indian people will expect too much from the Ombudsman because this will be the first time that they will be given direct access to high-ranking officer for making complaints. This may lead to two consequences. *First*, the people will storm the Ombudsman with complaints of grievances and allegations, a large number of them being frivolous. *Secondly*, he may take very long time to investigate all of these, and even may not be able to deal with all the complaints to the satisfaction of the people. Then it will not be possible for him to make any meaningful impact upon the administration.

#### SAFEGUARDS

Thus the criticisms against an Indian Ombudsman have two main directions : the one is that he will pose a threat to the rule of law and lead to tyranny, and the other is based on the assumptions of impracticability. The first is too extreme a view to be sustained on the basis of any rational considerations. The second difficulty, that of impracticability, can be overcome by devising some safeguard mechanisms. For example, we should start with the experiment very carefully. The first incumbent of the office must be of unimpeachable character, must have administrative experience of some kind, should be of great status and must be a person prepared to establish proper communication with all sections of people. In this connection, it will be better if the collegiate principle is accepted for Ombudsmanship in India. Prof. Rowat recommended a commission of three members in preference to a single individual for populous countries. He held the view that complex and important cases of judicial nature should not be decided by a single person. The collegiate principle can be advocated on another ground also. It will be an application of the principle of checks and balances, one colleague checking the other colleague. Single Ombudsman will be

stormed with all kinds of Pairvis. However incorruptible he may be, he may not be able to avoid the imperceptible impact of social and political pressures.

Whatever precautions we take in the making of an institution, its success ultimately depends upon the conditions operating in its environment. The same is true in respect of an Ombudsman. The character and quality of the man who holds the office is important. Besides, this institution can play a fruitful role in a system of government which habitually operates at a reasonable high level of honesty, efficiency and devotion. The smaller the zone of administrative wrongs, the greater is the utility of Lokpal and Lokayuktas. Where corruption is widespread and efficiency low, the entire system needs to be reformed, and this institution is hardly a cure for such a state of affairs. The Administrative Reforms Commission itself realised the limitations of the efficacy of this institution. In the Commission's view, the setting up of these authorities should not be taken to be a complete answer to the problem of redress of citizens' grievances. They only provide the ultimate set-up for such redress as has not been available through the normal departmental or governmental machinery. They, in fact, do not absolve the department from fulfilling its obligations to the citizen for administering its affairs without generating, as far as possible, any legitimate sense of grievance.<sup>1</sup>

The Lokpal and Lokayukta Bill was passed by the Lok Sabha on 20 August 1969; but the same was pending for consideration by the Rajya Sabha. The provisions of the Bill were also criticised by the Central Vigilance Commission (CVC). Under the existing procedure, most of the cases come to the CVC for advice either from the CBI or from the administrative departments and agencies concerned. While these departments would continue to deal with complaints, if the Lokpal is not to be consulted on their reports then its usefulness would be more limited than that of the CVC.

In a paper prepared for the conference of State Vigilance Commissioners, the Commission pointed out that the Lokpal could utilise the services of an officer or investigating agency of the Centre with the concurrence of the Government. The CVC does not require such concurrence. It was not clear whether these agencies would conduct investigations under the provisions of the Bill or under their respective statutes. The procedure regarding recommendations after investigation of grievance was clear. But in regard to allegations, it was not indicated whether the Lokpal was to recommend that a case had been made and regular departmental proceedings should be drawn up against the public servant, or, whether it was to be concerned also with the subsequent stages in the departmental

<sup>1</sup> Haridwar Rai and Sakendra Prasad Singh, 'Ombudsman in India', *I. J. P. S.*, July-September 1976, 55-62.

proceedings.

The Commission asked whether it is the intention to create such high-powered functionaries and merely endow them with the power to decide whether a 'prima facie' case for departmental proceedings against an erring public servant has been made out. So long as the CCA rules existed in their present form, the Lokpal's investigation could not be a substitute for formal departmental enquiry. In fact, it would be against the principles of natural justice to impose a penalty on a civil servant without giving him an adequate opportunity to test the evidence of the prosecution and produce his own witnesses. The remedy would lie in making it obligatory on the disciplinary authorities to consult the Lokpal both regarding appointment of the enquiry officer and on his findings.

However, the CVC says that in one respect the procedure prescribed in the Lokpal Bill will be an improvement. At present, there is no time-limit within which the competent authority is bound to take action on the advice of the CVC. But the Bill provides that the competent authority shall intimate within three months of the date of receipt of the report from the Lokpal the action taken or proposed to be taken. The Commission felt that the Lokpal is likely to be flooded with a very large number of complaints involving grievances. In its view, the Lokpal shall have to assume a more direct responsibility for investigating complaints of this nature. Such complaints could not be entrusted to the CBI or the administrative agencies for investigation. The Lokpal is likely to need a large staff of investigators and chasers to secure information on grievances by direct contact with the authorities concerned. It remains to be seen whether most of the time and attention of the Lokpal, and more particularly of the Lokayuktas, will be occupied by allegations or by grievances.<sup>1</sup>

The Additional Solicitor-General of India, referred to two Bills relating to the setting up of an institution like the Ombudsman in India which were initiated but lapsed and said that though not perfect they were steps in the right direction. The legislation brought forward did not contain a provision whereby the Lokpal could inquire into any charges against the Prime Minister. It was suggested that in any future law on the subject the restrictions regarding the areas into which the Lokpal could not inquire should be reduced and efforts should be made to increase his effectiveness. He referred to the recent happenings, especially during the emergency, and said that in the context of what the country had witnessed during the period, his plea for the inclusion of Prime Minister in the ambit of inquiry by the Lokpal could be appreciated. He explained that under the proposed Central Bill, the Lokpal had the authority to investigate any action taken by the minister or a

<sup>1</sup> *Hindustan Times*, 29 October 1970.

secretary or any other public servant. His main work, as envisaged in the Bill, was investigatory and not adjudicatory.

The Lokpal could recommend to the public servant and the competent authority that such wrong should be remedied within a certain time and if he felt dissatisfied about the action taken on his recommendation, he could also make a special report to the President. Experience had shown that the success of a good government was closely linked with a high degree of civic consciousness. The country recently witnessed an outstanding example of political consciousness and maturity of the people which should dispel any doubt or cynicism about their civic consciousness. 'This consciousness is very much there and wants to assert itself, if only citizens had a trusted friend and protector. The institution of Lokpal and Lokayuktas may well provide the answer.'

The aim and ultimate justification of any state, which stood for the welfare of the citizens, was good government. The hallmark of a welfare state were integrity of administration, which implied absence of corruption and improper conduct, and efficiency and effectiveness of administration. The objections raised against the establishment of a Lokpal on grounds that it would conflict with ministerial responsibility was ill-founded. Administrative justice demanded some regular, efficient and non-political system of investigating individual complaints against the powers that be. 'This is what ministerial responsibility does not provide. Lokpal and Lok Ayuktas would certainly be thorns in the sides of the powers that be. But that surely cannot impair the principle of ministerial responsibility. It would rather ensure accountability.'

The objection that Lokpal would encroach upon judicial functions of courts is untenable. It has been pointed out that the essential features of the Lokpal were to investigate, criticise and in some cases to publicise but not to reverse administrative actions. The purpose of the Lokpal was not to adjudicate, but to provide regular machinery for investigating grievances against the administration in a discreet and informal way. 'Beside, it is precisely because courts of law are unable to provide relief in several spheres that the Lokpal steps in.' The Lokpal was not only curative but also preventive and he did not only give relief to the aggrieved citizen but also induced more care in the administration in taking a decision. 'In short, he keeps officials on their toes. Also, to the extent the Lokpal holds a large number of complaints, the image of the administration is improved, the faith of the public is redeemed and the administration stands vindicated. Thus, the Lokpal had an important public relations aspect.'<sup>1</sup>

<sup>1</sup> *Times of India*, 20 May 1977.

#### AMENDED BILL INTRODUCED : JULY 1977

The Home Minister, told the Lok Sabha in July 1977 that all Central ministers including the Prime Minister, Chief Ministers of States and members of Parliament would fall within the purview of the Lok Pal Bill. He also added that it would cover all the mistakes made by the ministers or members of Parliament in the past five years. In the case of Chief Ministers, it would also take into account any abetment in respect of corruption by other state ministers. The amended Bill was introduced in the Lok Sabha. During the debate on the motion to refer the Bill to a Select Committee, the Home Minister said that the Prime Minister, members of Parliament and Chief Ministers were being brought within the purview of the Bill on the principle of equality before the law. Nowhere in the world was the Prime Minister considered above the law as the Congress members did in the recent past.

The Home Minister said that public servants, as against public men, would not come within the purview of the Bill. A vigilance commission was already in existence to deal with misconduct by public servants. If found necessary, the government could bring in a new measure later.

The Lok Pal would have the status of Supreme Court Chief Justice. If he had no time for some major investigation, he could appoint special Lok Pals. If he found that no action had been taken on his report in three months, the Lok Pal would bring the matter to the notice of the President. The investigating agency to assist him would be completely independent and not under government control. O. V. Alagesan (C) welcomed the Bill, but suggested certain changes such as that the Lok Pal should be required to submit his report on the Prime Minister to the Speaker of the Lok Sabha. It would defeat the purpose if the report was sent to the Prime Minister himself. Alagesan and Vasant Sathe (C) also opposed members of Parliament being brought under the Lok Pal's jurisdiction, because this would cramp the style of legislators and would be an encroachment on the sovereignty of Parliament.

Somnath Chatterjee (CPI-M), welcomed the Bill but expressed reservations about some of its provisions. He suggested that, in the name of 'federalism' in which the Janata Party had expressed profound faith, the investigating machinery to be appointed to look into charges against Chief Ministers should be chosen by the relevant authorities of the state concerned.

#### IV. SIMILAR INSTITUTIONS IN THE STATES

##### RAJASTHAN

The main function of the 'Removal of Public Grievances

Department' set up in July 1970, is to enquire into the causes of delay in disposal and inattention to public grievances by the various departments of the State Government. The head of the department, known as Commissioner, Removal of Public Grievances will, in consultation with the departments concerned suggest, from time to time, whether the prescribed period should be further reduced or extended. The department will also look into cases of delay in the implementation of the orders of the State Government and particularly of the Cabinet and will bring out instances of gross delay in this respect. It will not, however, deal with cases involving corruption and malpractices or into cases of alleged impropriety in the decisions taken by various Government agencies. Only very very glaring cases of the latter type will be taken up by this Department in its discretion or when specially desired by the Chief Minister, the Minister incharge of the Chief Secretary. Complaints of delay against the judicial court will not be directly dealt with, but in consultation with the High Court, the Commissioner may maintain adequate liaison with the Court so that the matters relating to public grievances involving delays in disposal and inattention in courts are brought to the notice of the High Court and the Court may issue directions regarding the same. Anonymous or pseudonymous applications or representations will not be entertained.

#### BIHAR

The President of India has given assent to the Bihar Lokayukta Bill, 1973. The Bill (now an Act) was passed by the State Legislature and reserved by the Governor of the State for the consideration of the President under Article 200 of the Constitution. The Bill provides that for the purpose of conducting investigations, the State Governor shall appoint the Lokayukta of Bihar, after consulting the Chief Justice of Patna High Court and the leader of the Opposition in the State Legislative Assembly. The Lokayukta, after his appointment, shall not be a member of Parliament or a member of the State Legislature and shall not hold any office of trust or profit, or be connected with any political party or carry on any business or practise any profession, etc. He may be removed from his office by the Governor only on the ground of misbehaviour or incapacity on the basis of an enquiry by a person of the rank of a Chief Justice of High Court or a Judge of the Supreme Court. The Lokayukta may investigate any complaint involving allegation or grievance resulting from any action taken by or with the general or specific approval of a Minister or a Secretary or any other public servant. Certain areas, such as cases relating to Extradition Act, security of State, etc. , have been exempted from his jurisdiction.



## MADHYA PRADESH

The Madhya Pradesh Administrative Reforms Commission (set up in 1969), submitted its report in 1972. It had before it three models as it were : a single officer, more than one office, or a multi-member body. It recommended that a single member body could not serve the purpose or inspire sufficient confidence. But it rejected the central model of having more than one high power authority, namely, the Lokpal and the Lokayukta. The Commission said : 'The success of the Mandal will depend, almost entirely, on the quality of the persons selected, particularly in the first instance. It will be for them to build up the proper traditions, conventions and attitudes.' It, therefore, recommended that 'The Governor shall by warrant under his hand and seal appoint the members of the Mandal :

'Provided that the members of the Mandal shall be appointed after consultation with the Chief Justice of the High Court of Madhya Pradesh and the Leader of the Opposition in the Assembly, recognised by the Speaker, or if there is no such Leader, a person elected in this behalf by the members of the Opposition in the Assembly in such manner as the Speaker may direct : '...Further provided that if such an election is not or could not be held during the session of the Assembly immediately following the occurrence of the vacancy, the Leader of the largest single group in Opposition in the Assembly shall be consulted.'

The Commission envisaged a powerful Mandal and vested it with comprehensive authority. Its role was to be both positive and negative, that is to say, to maintain integrity and efficiency in administration and to punish those found guilty of corruption and maladministration. Thus, it was provided that 'the Mandal shall aid and advise all public authorities in the matter of : (a) maintaining integrity in administration; (b) eliminating maladministration; (c) eradication of corruption; (d) punishing those found guilty of lack of integrity, corruption or maladministration; (e) redressal of citizens' grievances; and (f) improvement of practices and procedures of administration.'

The authority of the Mandal was to extend over all complaints against a public authority or public office or public servant. In other words, the jurisdiction of the Mandal was wide enough to permit it to inquire into the actions of all public servants including the Chief Minister, Ministers, Members of Parliament from Madhya Pradesh and Members of the State Legislature, as well as local bodies and their employees, cooperative societies, grant-aided educational and other institutions providing social services, public sector undertakings and persons functioning as quasi-judicial tribunals constituted under Central or State laws in relation to the affairs of the State. The Mandal was also authorised to look into the grievances of govern-

ment servants in respect of service matters.

As it happened, the Ministry which had appointed the Madhya Pradesh State Administrative Reforms Commission, had gone out of office and it was to a new Ministry that the Commission submitted its report in mid-1972. The new Government kept the 10-Volume report of the Commission virtually in cold storage and implemented only a few of its less important recommendations in a halting and piece-meal fashion. The particular recommendations about the setting up of a Prashashan Prahari Mandal was not even publicised or debated, nothing to say of implementation. However, as a follow up of the instructions (or was it the advice) of the Central Government, the State Government enacted in 1975 a law known as the Madhya Pradesh Lokayukta Avam Upa-Lokayuktas Vidheyak.

The Act provides for the appointment of a person as the Lokayukta and one or more persons as the Upa-Lokayukta or Upa-Lokayuktas. These high officers will be appointed by the Governor by warrant under his hand and seal. In the case of the Lokayukta, the Governor will consult the Chief Justice of the High Court and the Leader of the Opposition in the Legislative Assembly, or if there be no such Leader, a person elected in this behalf by the Members of the Opposition in that House in such manner as the Speaker may direct; this is an obvious echo of the Dikshit Commission Report. The Upa-Lokayukta will be appointed in consultation with the Lokayukta. The tenure of these offices has been fixed at 5 years and an upper age limit has been prescribed at 71 for the Lokayukta and 68 for the Upa-Lokayukta.

There is a provision for the removal of these officers. The Governor has been authorised to remove the Lokayukta from office on the ground of misbehaviour or incapacity after an inquiry by a person who is or has been a judge of the Supreme Court or a Chief Justice of a High Court. In the case of the Upa-Lokayukta, the inquiry is to be conducted by a person who is or has been a judge of the Supreme Court or a judge of a High Court. In the matter of jurisdiction of the new posts, the Act, as in the case of the Central Act, has divided all public servants into two categories, high and not so high. While the conduct of the former will be investigated by the Lokayukta, the Upa-Lokayukta will look into the allegations against the second category of public officials.

The new law has completely ignored the valuable suggestions of the Commission and has set up two authorities, the Lokayukta, and the Upa-Lokayukta, to deal with two different categories of officials. Moreover, the status of the new high dignitaries will not be as high and independent as that of the members of the Mandal. Thus, in the case of a member of the Mandal it was provided that 'the Governor shall not remove a member of the Mandal unless an address of the Assembly supported by a majority of not less than

two-thirds of the Members of the House present and voting, has been presented to the Governor in the same session for such approval.' There is no such provision in the new law and the Lokayukta and the Upa-Lokayukta can be removed by the Governor after an inquiry. Lastly, the jurisdiction of the Lokayukta and the Upa-Lokayukta will be less comprehensive and high-powered. For example, the new law has excluded from the purview of these officers cases involving the Chief Minister and the Members of Parliament from Madhya Pradesh and the Members of the State Legislative Assembly.

Thus died in embryo a unique organisation, namely, the Madhya Pradesh Prashasan Prahari Mandal, so boldly recommended by the State Administrative Reforms Commission, Madhya Pradesh, which had set a high score on this point. The Commission said : 'We consider that an independent, dedicated agency charged with the duty of securing prompt attention to the legitimate grievances, and zealous to safeguard the rights of the citizens is an indispensable instrument for averting the danger to which we have drawn attention. The acceptance of our recommendation will be an earnest of the Government's intention to provide to the citizen an effective means of securing remedial action when he is subjected to unjustified harm and hardship. The fact that there is an agency, independent of the executive, to keep the administration on its toes and act as a vigilant sentinel of the citizen's rights should in itself help to revive confidence in constitutional methods. Our recommendations are actuated by our anxiety, which we are sure the Government themselves share, to give institutional assistance to the legislature to secure in full measure that the doctrine of public accountability is enforced and that the exercise of the State's power is always informed by the purpose for which such power is entrusted to the executive and its instruments, namely, the public good.'

#### UTTAR PRADESH

The Uttar Pradesh Lokayukta Act came into effect from 12 July 1977. The Act has within its purview all the Ministers, other than the Chief Minister, secretaries and persons holding certain high offices. The overall object of the Act is to ensure a clean administration. According to the address of the Governor of the State to the joint session of the two houses of the State Legislature on 12 July, the Act would soon be amended to include high functionaries of public corporations within its ambit. He said that his Government was of the firm view that the Chief Minister should also be covered either by the Lok Pal or Lokayukta institutions. The institution of Lokayukta according to him would not only look into the charges of corruption against high-ranking public servants but also be able to take an effective action in cases of specific public complaints of injustice.

## CHAPTER XXII

# ATTEMPTS AT IMPROVEMENT OF ADMINISTRATION

### I. THE PROBLEM

The question of administrative reforms has engaged the attention of the Government of India, State Governments, statesmen and administrators since the attainment of Independence. Various attempts at reforming the administrative system have been made since then, but in spite of the changes in the administrative system and measures taken to remedy the defects in the administration of the country, the problem of reforms has become so complicated and so difficult that it has defied solution. It was aptly remarked by the former Prime Minister, Smt. Indira Gandhi on 1 March 1966, 'What India needed was a revolution in the administrative system', without which no enduring change could be brought about in any field. She also added that the patterns of administration were designed when Government's main business was to keep law and order, so they were not adequate for the challenges the country faced now.

'Administrative reform is needed where administrative change is insufficient to keep an administration abreast of developments and performance gaps appear: (i) When the administration is obviously failing to meet the demands on it. (ii) When the administration, though meeting current demands, is not equipped to tackle extra demands; it is just keeping its head above water. (iii) When the administration with reserve capacity is unable to anticipate future demands. It lives only for the present and concerns itself only with the immediate. (iv) When the administration with reserve capacity and ability to anticipate future demands does not adopt the most effective methods for performing its functions. It is unaware of what others are doing and is out of touch with the latest developments in its field.'<sup>1</sup>

But the problems of administrative improvement in India are larger and more complex than in nearly every other country in the world. There is the matter of sheer size and diversity of population. Fifty-five (now sixty five) crores of people, most of them still

<sup>1</sup> Gerald Caiden, 'Administrative Reform', *Management in Government*, Jan.-March 1970, 22-23.

illiterate, are participants in the present great Herculean effort for self-improvement. They speak many different languages, they are separated by great distances and inadequate transportation links; they hold many different religious beliefs; many of them suffer from inadequate food; the environment dooms to many early deaths and the strong forces of tradition and habit enforce the continuation of practices which are no longer pertinent to contemporary realities.<sup>1</sup>

To the above we may add two other factors which are responsible for making the problem of administrative reform extremely complicated and difficult: *First*, we have to 'get away from the heritage of pre-Independence which was left by the British, in which the wishes of the people were wholly ignored. *Second*, the Government of India (and the State Governments as well) have adopted the goal of a Welfare State. The most important weakness of our administrative system is its inability to carry out the social and economic policies of the Government. Our most serious failures have undoubtedly been in economic administration. In economic development as in other fields of national activity, there is a disconcerting gap between intention and action. To bridge this gap we should adopt whatever far-reaching changes in administration may be found necessary.' Naturally, therefore, the national tasks of reconstruction and development facing the administration in India are stupendous.

'The administrative organisation is a tool for conducting the economic and political affairs of the society in a disciplined and orderly manner, and for effectively achieving social and economic progress. Like all tools it has to be shaped to suit the environment in which it operates, and the nature of the material which it has to handle. The environment and the material are continuously changing, and if administration is to serve its purpose it has to continuously adapt itself to these changes. Moreover, it is not feasible to lay down a blue-print for a perfect administrative system. Nor is such perfection achievable pragmatically. But what is practicable is to improve on the quality of an existing administration by exercising a constant and vigilant watch over the areas of deficiency, and effecting a timely change whenever necessary. There always is a need, and scope, for reforms in any administration.'<sup>2</sup>

The nature and scope of reforms vary depending on the magnitude of the problem. Reforms can be conceived very narrowly as has been done in the past, both at the Centre and in the States, in the form of procedural improvements such as the single-file system, the officer oriented pattern and increases in financial and administrative delegations. Or they can take a wide perspective and be

<sup>1</sup> Jay B. Westcott's Lectures delivered at the I. I. P. A. on 20 and 23 March 1962, 1.

<sup>2</sup> M. Sunder Raj, *I. J. P. A.*, April-June 1967, 264.

drastic to the extent of replacing outmoded, wornout career services and systems and replacing them by something entirely new and better suited to meet new needs. 'Though one may analyse the problems of administration and suggest possible remedies, they must be viewed in the context of a tradition bound, authoritarian, parochial society, which lacks a civic culture. Only radical measures can bring about changes necessary to meet the challenges facing the country. Fiddling with procedures cannot make a lasting impact.'

In another way, broadly speaking, there are two kinds of problems : *First*, the over-all problems, which affect the working of all government organisations, like personnel administration, the staffing pattern of ministries and departments, the need for reviewing financial administration in all its aspects, etc. *Second*, there are other problems of a local character which concern only particular areas of administration or particular ministries. Allied with them are the problems of State Government and local administration, in which the Central Government is vitally interested, because of the essential unity of the administration of the country under a federal constitution. The appointment of the Administrative Reforms Commission in 1964 was a belated acknowledgement of the fact that the administrative machinery, both at the Centre and in the States, required a through overhaul. The Hoover Commissions in the USA, the first in 1947-49 and the second in 1953-55 served the Indian Commission as a guide.

The problem of administrative reforms in India is obviously a very difficult one. Some of the most glaring defects of the existing administrative system are : (1) faults in administrative organisation and structure, (2) delay in the dispatch of business, (3) inefficiency, and (4) lack of integrity or corruption. Reference may also be made to some other defects as pointed out by eminent authorities. Paul H. Appleby, an American expert on public administration, highlighted another chronic and persistent shortcoming of our administration. This is diffusion of responsibility and the plethora of consultation before a decision is reached accompanied by a general lack of follow-up and implementation. According to S. G. Barve, another outstanding deficiency is failure to locate definite responsibility at different points and levels of the administrative hierarchy. This location of responsibility is to be finally carried down to the level of the individual functionary.

Last, but not the least important, issue faced by us to-day is that of the relationship between Ministers and civil servants. It is certain that no administration can successfully discharge its duties unless it is left alone and allowed to implement the policies of the Government. The business of the Government is to lay down the policy and take full responsibility for the political decisions whether it relates to economic planning or some other fields. What has

happened during the last 30 years is that there has been constant interference with the administration right from the top to the lowest level. The interference might be by the minister or by an ordinary member of the ruling party, trying to practically brow-beat the lower official and threaten him with reprisals if the wishes of the former were not complied with. The official might be threatened with a transfer and things of that type have happened. Therefore, the civil servants are fast losing self-confidence and sense of responsibility. Looking to the other side of the picture, the administrators do not want to do any original thinking at all. They say our responsibility is to carry out the policies laid down and if there is any difficulty we take it to the minister.<sup>1</sup>

The following essential conditions for rapid improvement of the administration have been laid down :

(1) In each ministry, department, division, office section, development agency and company top person should assume active responsibility for the efficiency and effectiveness of his organisation.

(2) The top person in each organisation should assume personal responsibility for inspiring the employees about the importance of the work of the organisation and for assuring that each employee understands the significance of his own efforts.

(3) In large organisations, staffs of full-time specialists in work improvement should be maintained. The staffs should be manned by people who possess these qualities; resourcefulness, energy, patience, and special skill in the techniques of O & M.

(4) Reasonably attainable operating goals should be established, including quantity goals for the organisation as a whole and for each unit within the organisation.

(5) Reasonable standards of performance for each employee should be maintained, including standards for both quantity and quality of work performed.

(6) A system of periodic, prompt operating reports should be maintained, which compares actual production results with planned performance, it should also compare the organisation's activities with the activities of similar organisations.

(7) At each level in the organisation, leadership should make sure that the employees participate in the establishment of goals and standards, in the review and evaluation of performance, and in planning for eliminating weaknesses.

(8) At frequent intervals, appraisal should be made of the opinions of those who are served by the organisation, including analysis of patterns of complaints.<sup>2</sup>

<sup>1</sup> Aspects of Development Administration have been discussed in Chapter 3, Section IV.

<sup>2</sup> Jay B. Westcott's Lecture 'New Dimension in Administrative Improvement', delivered at the I. I. P. A. in March 1962, 5-6.

There are several tools of administrative improvement. The foremost among them is the O & M—the organisation and Methods—which include the study of the entire process of management. It is concerned with the organisation, and methods of work in the offices of public bodies. It aims at improving office procedures or methods of work in offices. Another important tool, related to the former, is work-study. It is the application of detailed analysis of work to achieve higher output. It aims at discovering, through systematic methods and a scientific approach, simpler, easier, and more effective and economical ways of doing work. It includes the two different Techniques of Method Study and Work Measurement. Whereas the former aims at improving methods of work resulting in more effective use of staff and equipment etc., the latter assesses human effectiveness. The objectives of Work Measurement are : (i) better internal control of work scheduling and individual assignments; (ii) more effective budgeting, forecasting and allocation of funds; and (iii) laying basis for method simplification, organisational changes, etc.

The Special Reorganisation Unit (SRU) in the Ministry of Finance has developed a system of organisation analysis and work study. Another important aspect of the O & M work is work simplification. It aims at simplifying procedures and methods. Some of the important techniques for improving work methods are : (i) work distribution analysis; (ii) work count analysis—a technique for analysing flow and sequence of operations; (iii) motion analysis—a technique for making maximum use of physical motion; and (iv) layout analysis—a procedure designed to lead to better utilisation of space personnel and equipment.

'Operational Research' is, in essence, the organised application of the methods of scientific research to operating problems outside the conventional field of science. Its objective is to provide the executive with quantitative basis for decisions regarding operations under their control. Its technique is to find new measures of effectiveness and to develop, where necessary, refined and powerful numerical methods specially adapted to the problems at hand. Finally, there is the automation, *i.e.*, the use of mechanical devices or processes. The approach towards office automation is made through the system of punched card, electronic data processing, and integrated data processing. Automation is an important aid to efficiency in office work.

## II. EARLIER ATTEMPTS AND GORWALA REPORT

Public administration in India during the Second World War was characterized by proliferation, deterioration and corruption. The war efforts had necessitated recruitment of additional personnel, which



was secured only by a significant lowering of the normal standards of selection. The resultant deficiency in quality could be made up by suitable training of personnel, but there was hardly any training imparted to the recruits. Consequently the efficiency of public administration fell considerably. 'Thus, the expansion of staff resulted in greatly diminished efficiency, which, in its turn, led to a demand for more persons, creating thus a vicious circle. Many of those who were pressed into government service during this period were not only poor in quality but had hardly any experience or tradition of service or even strength of character. As they were mostly recruited on a temporary basis, they had virtually little stake or future in the government. The war-time scarcity and governmental regulation and control of various activities offered temptations which many of them and even some of their senior colleagues could not resist. The result was an alarming increase in corruption in the public services of the land.'<sup>1</sup>

The earliest attempts at improvement were the Government of India Shortage Report in 1947 and the Reorganisation of the Machinery of Government (Gopalswamy Ayyangar) Report in 1949. Both the reports contained valuable recommendations regarding the action to be taken and the broad trends of reforms recommended by them were generally similar.<sup>2</sup> The first Finance Minister, R. K. Shanmukham Chetty, announced his agreement with the demand made in the Constituent Assembly (Dominion Parliament) for the setting up of an economy committee. The Committee was appointed in January 1948 with the following terms of reference : 'To review the increase in the civil expenditure of the central government since 1938-39 and to make recommendations for the promotion of true economy in the administration by the elimination of unnecessary, wasteful or extravagant expenditure having regard particularly to the following :

(i) The termination of activities which had ceased to serve any essential purpose ; (ii) the desirability of reducing or curtailing any functions or activities which might have been undertaken by the central government within the provincial sphere beyond what was necessary ; (iii) the reduction of the scale of expenditure on staff, contingencies and supplies; and (iv) in regard to development expenditure to draw attention as far as possible to expenditure which was not in accordance with any defined policy of the central government and to suggest methods by which government policy might be most economically carried out.'

The composition of the Committee represented the legislature, the business and the bureaucracy. The Committee attended to its task at the macro as well as the micro levels. It submitted a general

<sup>1</sup> S. R. Maheshwari, *The Evolution of Indian Administration*, 197.

<sup>2</sup> For broad details of the latter see Chapter 4, Section I.

report in which it made recommendations of a broad, government-wide nature. In addition, it examined each ministry of the government and set forth its recommendations in a separate report under the title of the ministry under examination.

#### GORWALA REPORT ON PUBLIC ADMINISTRATION, 1951

The establishment of the Planning Commission in 1951 dictated for the first time the necessity of considering whether the existing administration and its methods were adequate to the requirements of planned development. A. D. Gorwala, a retired Civilian, agreed in honorary capacity as a non-official to prepare a report for the Planning Commission. The inquiry was started on 1 March 1951 and the report submitted on 30 April.

Gorwala enunciated the following broad objectives to guide and inform improvement in public administration : (a) Giving first place to first things and making the best use of the best people ; priorities for politics and personnel ; (b) Insisting on standards of integrity, implicit and explicit ; not only the reality of integrity but also the demonstrable appearance of integrity ; (c) Promoting mutual understanding, proper readjustment of human relations involved in government and administration ; (d) Re-organizing the administrative machine so as to ensure greater speed, effectiveness and responsiveness ; and (e) Arranging for proper training and planning proper recruitment for the long term.<sup>1</sup>

In the circumstances, if maximum progress is desired, the only course possible is to place first things first. Effort must be deliberately directed towards a few specific goals, since it is apparent that there is no plethora of good instruments available and both direction and drive must come from those qualified to impart them. The best officials must be placed in positions of strategic effectiveness and the best possible use must be made of all officials in order to obtain success in the fields chosen.

There must be no clash between the Centre and the States as regards objectives, policy and implementation. To agreement on objectives and policy there must be added a co-ordinated plan for the disposition of manpower. That which is of real importance must be done thoroughly, that of secondary importance relegated to the background. This question of priorities applies with equal force to the allocation of funds. The spending of money too must be directed towards those objectives which, it is agreed, serve the greatest need, instead of being concentrated on those which interest prominent Ministers most or scattered over a large number of subjects, all no doubt desirable but in the aggregate likely to be much less beneficial than the one or two which are really crucial. Thus, for a deficit State to raise its expenditure on education fourfold in

<sup>1</sup> A. D. Gorwala, *Report on Public Administration*, Chapter II.

four years while that on minor irrigation remains about the same seems inappropriate in view of the urgent need for food.

Linked with this is the question of assessment of results. Governments indulge in large expenditure hoping that certain results will follow from the expenditure. This often does not happen, but very rarely any machinery is devised to examine and assess results. Such machinery should invariably be indicated and its duties clearly laid down, whenever large expenditure is sanctioned. Otherwise money continues to be poured out year after year in the mistaken belief that the anticipated progress is made, whereas in reality very little happens. Expenditure other than the initial should be considered afresh in the light of the reports of this machinery.

The deviation from moral standards of Ministers, Legislators and Administrators takes various forms. These can be classified under three main heads : corruption, patronage (based on communalism, sectarianism, nepotism and favouritism) and influence. Whatever the form, there can be no doubt that it vitiates policy, weakens administration and undermines public confidence. The only real remedy for this state of affairs lies in raising the calibre of the Legislators, the sense of responsibility of the Minister and the character of the officer. The first two again really depend on the selection of candidates by the political parties, for it is from these candidates that the Legislators will be elected and from the Legislators the Ministers will be chosen. It is, therefore, of the utmost importance that men of character, capable of disinterested approach to problems and of deciding matters on merits even against themselves should be selected as candidates.

To such of the officers as have imbibed fully the old tradition of impartial service, decision on merits comes naturally. Some of these, however, have since learnt to be courtiers, and among officers recently promoted to higher positions of responsibility, apprehension of results and expectation of favours are often decisive. Recruits to the youngest service seem to have acquired more of the tradition of the old service. In this matter, however, the responsibility finally rests upon the Ministry. A Government will in the long run get the servants it deserves, though the inculcation of high standards of behaviour among government servants, more especially the juniors by the seniors, may help to preserve healthy traditions and make degeneration less easy for quite a long time.

From this there devolves a very special responsibility on Ministers. Their conduct must be such as to give no room for any feeling that any special interest is likely to have an undue influence over them. However, close friendship with such interests may have been before acceptance of office, circumstances necessitate extremely correct behaviour thereafter. Thus no question should arise of being the guests of, or living in the houses of, individuals representing such

interests. This should be the rule even as regards thoroughly respectable individuals. Very much more so this should be the case when the persons concerned are generally reputed to behave in an anti-social manner. In the state of our laws it may not be possible to hang influential black-marketeers and tax-evaders from the lamp posts, but it is certainly within every Minister's capacity not to consult them, to show them no favours, to avoid having social contact with them, to refuse to make speeches at gatherings where they take a leading part or to accept purses from them.

The Minister is not permanent; he is also generally a layman, often either without any administrative experience at all or without experience of governmental administration. Hence there is the need for experienced assistance of the highest quality. Unlike the Minister, the permanent civil servant is definitely non-political. The basic feature of the system is 'the association together of an amateur, lay, political, non-permanent directing body and an expert, professional, non-political, permanent subordinate staff. The former provides the democratic element in administration, the latter the bureaucratic. Both are essential, one of them to make a government popular, the other to make it efficient, and the test of a good government is its successful combination of these two qualities.' The final decision is always with the Minister. He issues directions and instructions and it is he who determines policy, but in doing this he must seek advice from his department.

The main administrative requirements of planning are essentially the same as the long-term needs of ordinary administration—right recruitment, right training, right allocation. Such difference as there is between the two is in degree rather than in kind. Depending on the nature and extent of the plans, the recruitment will be larger and more varied, the training perhaps more specialised and the choice of the right man for the right place more than ordinarily important.

Two dangers have to be avoided in this connection, namely planning ahead of men and money and planning in compartments. The previous five-year plan has been dislocated, among other things, because of planning ahead of finance. In the same way, it is easy in the flow of enthusiasm to plan ahead of the availability of trained men. Personnel requirements should be listed and priority schemes for training started and advanced before launching on the new services themselves. A clear-visioned realist, in spite of being an ardent adherent of nationalisation and the socialist state, once rightly remarked, 'Never take over anything unless you can run it at least as efficiently as those who ran it before,' and the same principle applies to plans. In other words: Do not start a new plan unless you have made reasonably sure, by preparing the proper personnel etc., that you can run it efficiently.

GORWALA REPORT ON THE EFFICIENT CONDUCT  
OF STATE ENTERPRISES, 1951

He drew a comparison with private enterprises, which he considered important because of the lessons such a comparison could impart at that time.; but for the present that is not very relevant. However, the following points may be noted : (i) Profit is the main consideration in private enterprises, whereas the main objective in public enterprises is public service and public security, although they may also be run for profit. (ii) Direction and management in public enterprises being impersonal, there is not so much at stake in the success of the concerns. (iii) The authority in a private concern—the director—has more autonomous existence being able to use his discretion to the fullest measure ; and (iv) The criticism which a private enterprise has to face is from the consumer in regard to the quality of goods. On the other hand, a public enterprise has to 'live in the fierce light of publicity', since the product is the property of the nation.

He suggested measures for the efficient administration of public enterprises. The immediate objective was to equip the government gradually but effectively for the efficient discharge of its increasing task as participant in industry. This implied the evolution of suitable forms of control, direction and management, the formation of expanding nucleus of suitable personnel at all levels and the building up of sound traditions, appropriate methods and new devices in a sphere of activity relatively untried by the state and different in aspect from ordinary governmental administration.

He then referred to two forms of management. The first one being the entrustment to a private agency in suitable cases, namely : (a) where it means merely extension of an existing private enterprise; (b) where, for special reasons, the state has felt compelled to take over temporarily a private management; and (c) where, in exceptional urgency the state feels necessary to provide finance to a private agency of established repute, which, then, manages the undertaking. The second form, according to him, is the entrustment to departmental agency. This is suitable in some cases, although this is the 'direct negation of the requirements of autonomy.' This form inevitably brings in the question of administrative procedure, financial sanctions, etc. Nevertheless in emergency caused by war and in the pressing context of economic controls, departmental management of semi-commercial operations over a number of years had proved successful in several states.

### III. APPLEBY REPORTS

REPORT ON PUBLIC ADMINISTRATION IN INDIA, 1953

Paul H. Appleby, consultant in Public Administration to the Ford Foundation, was requested by the Government to make a

survey of the administrative system of India. His recommendations, twelve in number may briefly be grouped as follows : (a) Structural changes required filling in the gaps in the pyramidal structure by way of creating middle level functionaries. (b) Providing the key personnel by removing fixed limits on the numerical strength of various services ; by preparing panels of qualified candidates rather than selection of individuals as at present ; by organizing training programmes for development of the existing personnel ; by setting up graduate programmes to train youngmen and women for entry in the service. (c) Creating machinery for research on improvement of government by establishing an institute of public administration at the national level and creation of O & M organization in Government of India, by undertaking further studies with the help of outside expert services. (d) Increasing the operational effectiveness of the personnel in charge of developmental programmes by elevating their status and consolidating responsibility by simplifying procedures so as to reduce too much cross reference and concurrence of various ministries and departments.<sup>1</sup>

In order to increase revenues he suggested that agricultural income-tax should be introduced in all the States and land assessment and tax rates be revised and rationalized. In order to wipe out arrears, increase in the number of tax collectors was recommended. In the field of organisation, his contribution lay in two important recommendations. *First*, the basic defect in the organisation of the Central Secretariat was a serious gap that existed between a handful of highly qualified superior officers on top and the lower grades of the departments, a class of non-gazetted ministerial assistants and clerks at the bottom. Appleby wanted the Government to fill these excessive gaps in each department by the appointment and training of middle personnel, so that the administrative hierarchy of the Secretariat might be strengthened by being truly 'pyramidal'. *Second*, in place of periodical, inquiries by a Secretariat Committee he recommended the establishment of a regular Public Administration Office called an Organisation and Methods (O & M) Division intended to serve as a focus of special competence and responsibility for continuing study and making proposals concerning the improvement of governmental structure and administrative methods. Connected with this object was his proposal to have an Institute of Public Administration.

An O & M Division was accordingly set up in the Central Secretariat in 1954 and the Indian Institute of Public Administration was also established the same year at New Delhi. In 1958 the Government of India provided for the delegation of financial powers to administrative departments and instituted Financial Advisers

<sup>1</sup> S. R. Maheshwari, *op. cit.*, 226.

attached to each such department for local guidance and control. The Government, however, did not do much to provide for the middle personnel O & M in the Government of India and the States has been discussed in the last section of the Chapter.

RE-EXAMINATION OF INDIA'S ADMINISTRATIVE SYSTEM WITH  
SPECIAL REFERENCE TO THE GOVERNMENT'S INDUSTRIAL  
AND COMMERCIAL ENTERPRISES, 1956

The second report, as indicated by its title, concerned itself more specifically with public undertakings. The setting up of government's industrial and commercial enterprises in the country after independence had created additional problems of introducing reforms in India's Administrative System, which was largely based on the pattern of administration during the British rule. The key to India's success lies, according to Appleby, in rapid decision-making and rapid action. Such administrative procedures ought to be established as have the maximum potential of acceleration, consistent with the maintenance of democratic values. According to him it was easier and more acceptable to adopt new procedures for activities which are largely new, viz. the area of industrial and commercial enterprises. In the report he particularly dealt with the shortcomings in India's administrative set-up and application of conception of autonomy to the government's undertakings. His main emphasis was that the government must grow in size and the growth capacity should be cultivated by structural and procedural arrangements. But he was struck by an unwillingness and incapacity of persons in authority to delegate; so he stressed the need for delegation throughout the Report.

Parliament's reluctance to delegate prevented everyone below from delegating. The office of the Comptroller and Auditor-General was another impediment to effective delegation, so the powers of the Comptroller and Auditor-General should be reviewed and specified. He was critical of the prevailing tendency in the Indian bureaucracy of not utilizing the abilities of the subordinate personnel. He remarked : 'If India confines the bureaucracy to small scope she will confine the nation to small achievements.' He suggested techniques of review and control of that which was delegated should be developed, and the control and supervision at each level should be adequate to that level.

Appleby also criticised the existing attitude of adhering to procedures in every matter and lack of leadership and imagination. The procedure of review that had been developed in the Indian administration put the entire government into a dangerously negative posture. He emphasized that the chief concern of the finance ministry should be to develop intra-ministerial financial competence in the programme agencies, to transfer the accounting function to the

ministries under the general direction of finance, to limit the role of the Comptroller and Auditor-General, to improve personnel recruitment and arrangement and, finally, to elevate the approach of parliamentarians to a more general and positive appraisal of the government. The need for flexibility and mobility in the services received special notice, so also the recognition of merit of top-level government generalists. The Comptroller and Auditor-General was held responsible for the widespread and paralysing unwillingness in the government to decide and to act. He felt strongly that the Finance and Home Ministries ought to move to the higher levels of responsibility and exercise more general and less specific controls in achieving more coordinating character. He was of the view that the ministry of finance needed to shift more of its attention to better budgeting.<sup>1</sup>

#### IV. OTHER ATTEMPTS BEFORE THE ADMINISTRATIVE REFORMS COMMISSION

The First Five-Year Plan, published in July 1951, stressed the importance of assessing the requirements of scientific, technical and administrative personnel, improvements in the quality of recruitment to the administrative services and in the procedures for their selection, the need for administrative leadership and the responsibility of the higher ranks of public servants for improving administration. In August 1952, the Programme Evaluation Organisation was set up in the Planning Commission to make a systematic and periodic assessment of the methods and results of the Community Development Programme. A Special Reorganisation Unit (S. R. U. Economy Division) was established the same year in the Department of Expenditure of the Ministry of Finance to make an objective review of the organisation and personnel strength of the various Ministries and their attached offices.

In 1954 Asoka Chanda, submitted his report entitled 'Notes on Changes necessary in the system of Budgetary and Financial Control and in other methods to eliminate delays in execution of Projects.' This report aimed at solving the problems of delay in the execution of projects and of large sums of money allotted to various projects remaining unspent every year. Chanda recommended greater measure of delegation, creation of all-India services, adoption of officer-oriented system of functioning, constitution of a common service, 'divided vertically into departments to provide for specialized training in the different shares of governmental activity.'

The States Reorganisation Commission 1955, looked upon the state public service commission as an instrument of fair-play vis-a-vis the linguistic minorities of the State. This was to be

<sup>1</sup> *Ibid*, 234-35.



secured by constituting one public service commission for more than one State and, secondly, by vesting the right of appointment of the members including the chairmen of commissions serving single states, in the President of India. This arrangement, according to the States Reorganisation Commission, would have given these bodies a higher stature and more independence. The Commission also made recommendations to ensure balanced and equitable regional development of the country, such as the creation of special development boards for underdeveloped regions, the enunciation of an industrial location policy for the entire country, and the setting up of a permanent body to examine complaints regarding neglect of certain areas.

Several of the Commission's recommendations were given effect to by the Government. The Indian Service of Engineers, the Indian Forest Service, and the Indian Medical and Health Service were created in 1963. Half the entrants to the all-India services assigned to a State for service are taken from outside the State concerned. The Commission's views on training of probationers of the all-India and the central services have found expression in the five-month foundational course at the National Academy of Administration, devised for recruits to the all-India as well as the central services. The judgments of the high court are partly filled up by appointment of persons from outside the state concerned.

The Special Reorganisation Unit was reorganised in 1958 to incorporate the use of work-study techniques for determining work loads and staff complements and overhauling procedures. Since January 1960, the SRU had been entrusted with a 3-year programme of work-studies covering the entire Secretariat and important offices. Two high-level institutions, the Central O & M Division and Indian Institute of Public Administration, were set up in 1954. In August 1960 an Administrative Vigilance Division was set up in the Ministry of Home Affairs to render assistance and to co-ordinate the activities of the Central Government in their campaign against corruption in the public services.

Its suggestions were emphasis on merit for promotion to senior posts, introduction of a system of promotion by special competitive examination, to provide additional opportunity of entry by Class II and III services to Class I services, drawing of administrative personnel from as wide a field as possible and fuller use of the abilities and diversity of experience of the officers of Central Services Class I (non-technical), heading of technical departments by a Secretary having a technical background in a particular field, establishment of departmental Joint Councils, with provision for compulsory arbitration of some specified matters, and abolition of the existing system of classification of services into four classes in the interest of creating a feeling among civil servants

of belonging to a common public service.

The Chapter on 'Administration and Plan Implementation' in the Third Five-Year Plan (1961-66) stressed the need for a concerted effort to make the administration more action-minded than at present, the fixation of specific responsibility on administrative agencies and individuals, greater administrative and financial delegation to executive departments and setting up of targets of performance. Emphasis was also laid on the department of middle class personnel, economy in construction, improvement of systems of reporting and strengthening of the machinery for planning in the States. The Chapter on 'Organisation of Public Enterprises' lent support to the proposal to set up a select committee of Parliament for public enterprises, and disfavoured the appointment of Secretaries to the Ministries as Chairmen of Directors.

Statement on Administrative Procedure laid before Parliament by the Prime Minister on 10 August 1961 stressed the following objectives : (i) Individuals and organisations should be judged strictly by the test of results. (ii) The present system of financial control should be reorganised. Itemised examination of financial proposals should be confined only to vital matters. (iii) The responsibility of the Head of Department and the executive authority concerned with the implementation of programmes and policies will be substantially increased. (iv) The managerial skills of the public servants will be increased through a sustained programme of executive development by training and counselling. (v) Simplification of procedures and work will be vigorously pursued by introducing work-studies, by competently trained personnel, in all spheres of administration. (vi) Relations with the public will receive special attention.

A number of concrete proposals had been worked out to give effect to these broad objectives. The important ones among them were : (1) Ministries need not conform to a standard pattern of organisation. (2) Ministries should only concern themselves with matters of policy, general supervision and enforcement of standards. (3) Responsibility for financial management should be devolved in greater measure than before both on the Ministries and the executive agencies. (4) Control of the Ministry of Home Affairs on staff upto and including Section Officers be transferred to the Ministries concerned. (5) Officials in key posts be kept in their jobs for at least five years to enable them to produce results expected of them. (6) Resort to committees, groups, conferences, etc. should be reduced drastically. (7) Continuous studies will be made with a view to simplification and improvement by the O & M Division and internal work-study cells of Ministries of such procedures as involve delay in decision-making and implementation. (8) Incentive schemes, based

on systematically worked out standards, will be tried.<sup>1</sup>

In place of the existing Central Economy Board, a Committee on Administration was constituted in 1961 with continuous responsibility for promoting administrative efficiency. At the same time the Cabinet Secretariat was bifurcated into two departments, namely the Department of Cabinet Affairs and the Department of Statistics. The 6th report of the Central O & M Division emphasised that 'O & M should function in the nature of administrative research on identified problems.' The Government of India also decided to establish two all-India Institutes of Management for providing training in Management at the highest possible standard and also to provide facilities for research in the field.

The Prime Minister in 1963 outlined the progress in the measures undertaken by the Government of India to tone up Central administration. A brief summary of the Statement may be given here : (1) Methods and Procedures : (i) Rules issued by various Ministries on different subjects have been revised to secure general simplification by avoiding duplication and contraction of longer dilatory procedures ; (ii) Public Works Account Code has been scrutinised so as to secure speeding up of constructional programmes, saving in time and expenditure ; (iii) Simplification of registers, returns and reports. (2) Ways and means for scientific management of records in Government Offices which will release more space and provide better accessory records and better working conditions for the staff were suggested to the Ministries sometimes back. (3) Orientation and training of staff. (4) Delegation and financial control. (5) Economy in staff. (6) Plan projects and public sector undertakings.

The Government of India set up in March 1964 the Department of Administrative Reforms in the Ministry of Home Affairs, to deal with the problem of reform, reorganisation and modernisation of administration at all levels so as to make it an efficient and sensitive instrument for carrying out the task of economic development and social welfare and for achieving welfare and for achieving the general social objectives which the country has set before it, and the need for setting up of an agency for evolving a machinery for the redress of grievances of citizens arising from unsound procedures, wrong though not necessarily dishonest exercise of discretion, delays, lack of courtesy and consideration in official dealings and the like. But all this could not satisfy the people.

## V. ADMINISTRATIVE REFORMS COMMISSION (A.R.C.)

A demand for a wide-ranging inquiry into the machinery of

<sup>1</sup> For details see *I. J. P. A.*, Vol. VII, No. 3, 264-70.

Central Government had been in articulation ever since Asoka Chanda submitted his report in 1954. The resolution of the Government, setting up the Administrative Reforms Commission, was issued in 1964. It said, 'The Commission will give consideration to the need for ensuring the highest standards of efficiency and integrity in the public services, and for making public administration a fit instrument for carrying out the economic policies of government and achieving social and economic goals of development, as also one which is responsive to the people.' In particular the Commission will consider the following : (i) the machinery of the Government of India and its procedures of work, (ii) the machinery for planning at all levels, (iii) centre-state relationships, (iv) financial administration, (v) personnel administration, (vi) economic administration, (vii) administration at the State level, (viii) district administration, (ix) agricultural administration, and (x) problems of redress of citizen's grievances.

Perhaps never before an administrative reforms commission in any country was asked to examine and report on such a vast array of subjects. The Hoover Commission, appointed in the United States in 1953-55, was asked to report only on the organisation of the Executive Branch of the Federal Government. The machinery of government was excluded even from the terms of reference, prescribed for the British Committee on the Civil Service (1966-68), popularly known as the Fulton Committee. Thus the Administrative Reforms Commission is an example of an all-embracing attempt at reform. It was considered advantageous on these grounds : (i) it could view all problems in perspective, (ii) it could take into account all interrelated problems at the same time, and (iii) it promoted fresh thinking on the subject in the bureaucracy as well as outside it. The Commission adopted a 'phased' approach for submitting its reports.

As originally constituted, the Commission consisted of the following six members including the chairman and the member-secretary : (1) Morarji Desai, member of Lok Sabha (chairman), (2) K. Hanumanthaiya, member of Lok Sabha, (3) G. S. Pathak, member of Rajya Sabha, (4) H. C. Mathur, member of Lok Sabha, (5) H. V. Kamath, member of Lok Sabha, (6) Vidya Shanker, member-secretary. In March 1967, Morarji Desai (chairman) joined the central government as Deputy Prime Minister. He was succeeded by K. Hanumanthaiya as chairman. The composition of the Commission was criticised by many on the ground that its membership was confined to members of Parliament (excluding, of course, the member-secretary). As a matter of fact, the Government had departed from the accepted principle of making such a Commission of enquiry broad-based with members having different backgrounds. However, the Commission made extensive use of the

experts in a large number of study teams set up by the Commission. Since the Commission was set up by the Government, it could not be called a parliamentary commission, in spite of its membership. Some of its important reports are :

1. The Machinery of the Government of India and its Procedure of work,
2. State Administration,
3. Machinery for Planning,
4. Personnel Administration,
5. Centre-State Relationships, and
6. Redress of Citizens' Grievances.

These have been discussed at proper places in the different chapters. However, a brief summary of the first follows in the next section.

#### IMPLEMENTATION OF REFORMS

The ARC like other similar bodies, was advisory in its character; naturally therefore the government could not be compelled to accept its recommendations. In this connection the following comments are important. The mechanism for processing the Commission's recommendations, as evolved by the Government, is much different from the one which the Commission had itself visualised. In fact, the Commission's recommendation on this aspect stands wholly rejected by the Government. The scheme as adopted by the Government, entrusts major responsibility for treatment of the Commission's recommendations on the ministries or departments concerned. The Department of Administrative Reforms in the Ministry of Home Affairs acts as the coordinating agency, a separate branch, known as 'implementation cell, has been set up in this department to be in charge of pursuing and overseeing implementation of the Commission's recommendations. While the Commission deliberately chose to give the minimum role to bureaucracy in the processing of its proposals, the Government has given it the maximum one. To this procedure has been attributed by many the slowness of action on the Commission's reports.

In this connection the following requirements have been laid :

(1) The establishment of an adequate agency for follow-up action. Often, worthwhile recommendations, included in regular administrative or other reports get lost in a multiplicity of considerations in unreceptive organisations; and the fate of special committee or Commission Reports on this subject is not any better.

(2) Unless the urge to improve comes from within or the call for improvement generates this urge, no lasting improvements can result. And this applies to organisations as much as it does to

individuals. The urge to improve administrative performance must emanate from 'within' the organisation and cannot be a matter of compulsive imposition from 'outside'.

(3) It relates to the choice and training of personnel meant to undertake this activity, whether in these internal units or the central agency under the Prime Minister or the supporting research and secretarial units of special committees and commissions. It has long been recognized elsewhere that such men have to be chosen with great care because the attitudes, the dogged and persuasive bent of mind and other capabilities that are required in such assignments are not freely found or developed.

These are some of the important requirements for a good implementation machinery, but it needs to be re-emphasized that no lasting results can be achieved unless the attitudes and environment conducive to the maintenance of a constant urge for administrative improvement exist or are created. This is a much more deep-rooted problem than seems at first sight. Spectacular rates of economic growth, high aspirations of technological break-through, etc. are only possible if the minds of men responsible for translating plans into action programmes respond to the challenge and deliberately and assiduously foster the scientific attitude in administration which accept nothing, rejects nothing except on the touchstone of effectiveness to fulfil objectives. But we cannot possibly do it without an administrative revolution.<sup>1</sup>

The Major recommendations, which have received Government's acceptance, are as follows :

1. The government has agreed to create the institution of Lok Pal and Lokayukta.

2. The recommendations for a separate Department of Personnel with a full Secretary under the general guidance of the Cabinet Secretary has been accepted. The Department of Personnel was set up in 1970.

3. In January 1970 the Government also set up a Bureau of Industrial Costs and Prices in the Department of Industrial Development. This Bureau is to tender advice to the Government on issues relating to cost reduction, improvement of industrial efficiency, and pricing problems.

4. The Commission recommended the introduction, from 1970-71, of 'performance budget'. This has been accepted by the Government which introduced performance budget in 1968.

5. Most of the recommendations regarding the constitution of the Planning Commission have been accepted. While the Prime Minister and the Finance Minister continue to be its chairman and member respectively no other central minister had been included in

<sup>1</sup> See 'Implementing Administrative Innovations and Reforms, *I. J. P. A.*, July-September 1966, 614-16.

the Commission, which was reorganised in 1967.

6. Regarding the creation of sectoral corporations for public sector undertakings, the Government did not consider it necessary to accept the need in principle. However, the Government recognised that, in certain circumstances, there might be advantage in having sector corporations, and such cases would be considered on their merits. The Government also accepted the recommendation that no officer of a ministry should be made chairman of a public undertaking, nor should the secretary of a ministry be included in its board of management.

7. The Government has accepted the recommendation that combined audit parties comprising the staff of the audit boards and the professional auditors should be formed for carrying out their work in an undertaking concurrently and collectively. An audit board should finalise its report on an individual undertaking after a discussion in the presence of the representatives of the public undertaking and the ministry concerned. The report of the audit boards, with such comments as the Comptroller and Auditor-General may wish to make, should be placed before Parliament.

8. The following recommendation has been broadly accepted : The Department of Administrative Reforms should confine itself mainly to : (a) studies on administrative reforms of a fundamental character; (b) building up O & M expertise in ministries/departments; and (c) advice and guidance to these O & M units in effecting administrative improvements and reforms.

9. Some of the recommendations about the reorganisation of ministries and departments in the Government of India were kept in view by the Prime Minister in making the changes in the allocation of work between various ministries in February 1969.

10. The following recommendation has been accepted in principle : The Prime Minister should continue to be associated with key appointments. He/She should, periodically meet individually or in groups, the secretaries of important departments.

## VI. A. R. C. ON THE MACHINERY OF THE GOVERNMENT OF INDIA, 1968

### IMPORTANT RECOMMENDATIONS

(1) *Introduction.* In its assessment of the existing machinery of Government and formulation of the proposals for its reform, the Commission has borne in mind 'the new role which is expected of the Administration under the present conditions of growing enlightenment and rising expectations of the people.' The Administration 'must answer to the needs of the people and secure public response and cooperation.' The Commission adds : 'The Adminis-

tration is also conditioned by the stage of social, economic and political development of the country and affected by the attitude and motivations of those who run it. Viewing the problem in this perspective we (the Administrative Reforms Commission) found it necessary to take a realistic view of things and strike a balance between the needs of continuity and those of change.'

(2) *Machinery at Supra-Ministry Levels.* In order that the Cabinet may be able to provide united leadership and overall direction, take policy decisions with expedition, oversee in a consistent manner the implementation of policies and programmes and in general to guide the administration on effective lines, it will have to be small in size and homogeneous in composition. The number of Ministries in the Union Cabinet should be 16, including the Prime Minister. Each Department/subject should be represented in the Cabinet by one or the other Cabinet Minister. There should not be any Ministers of State with independent charge of a department or departments. The size of the Council of Ministers and the Cabinet should be determined on a rational basis related to the needs of administration. The strength of the Council of Ministers should normally be 40. It may be increased in special circumstances but should in no case exceed 45. The functions and responsibilities of Ministers of State and Deputy Ministers and the powers which they may exercise within a Department or a Ministry should be clearly specified in the appropriate rules or orders.

(3) *Relations between Ministers, Civil Servants and Parliament.* There is a growing feeling among the public that many of the Ministers lack interest in ensuring efficient administration and do not possess the acumen needed for the purpose. The Prime Minister should meet all Ministers individually or in groups every month to discuss progress in implementation of policies and programmes and measures for improving the administrative efficiency. The Prime Minister should, with the assistance of the Cabinet Secretary and the central personnel agency, take special interest to arrest the growth of unhealthy personal affiliations to individual Ministers among civil servants.

A Minister should not intervene in the day-to-day administration except in cases of grave injustice, serious default or maladministration on the part of civil servants. Where a citizen's request or complaint calls for revision of a rule, procedure or policy, it should be met by effecting such revision, and not by relaxing the rules to accommodate an individual case. Secretaries and other civil servants need to show greater sensitivity to and a better appreciation of the Minister's difficulties, and to discriminate between minor adjustments on the one hand, and acts of political and other forms of accommodation compromising basic principles or likely to have substantial or lasting repercussions on efficiency and morale of the



services, on the other. The official relationship of the Secretary to the Minister should be one of loyalty and that of the Minister to the Secretary one of confidence.

(4) *Ministries and Departments.* The role of the Central Ministries and Departments in subjects falling within the State List should be largely that of a pioneer, guide, disseminator of information, overall planner and evaluator. An analysis should be made in the light of these criteria of the items of work now handled by the Central agencies and such items as do not fulfil the criteria should be transferred to the States.

(5) *A Central Personnel Agency.* A separate Department of Personnel should be set up, with a full Secretary in charge, who should work under the general guidance of the Cabinet Secretary. This department should have the following functions and responsibilities : (a) formulation of personnel policies on all matters common to the Central and All-India Services, and inspection and review of their implementation; (b) talent hunting, development of personnel for 'senior management' and processing of appointments to senior posts; (c) manpower planning training and career development; etc. The Cabinet Secretary should, by convention, be regarded as Secretary-General of the new Department of Personnel, without being formally so designated. He should be actively involved in the development of and selection for 'senior management', but not in appointments below that level. The new Department of Personnel should be placed directly under the Prime Minister.

## VII. ORGANISATION AND METHODS (O & M)

What is 'O & M'? The review of organisation and the simplification and improvement of office methods have attracted increasing interest in recent years both in the fields of public and private administration. We hear so much about O & M Division in Britain, USA, and other countries. These (O & M) are the Departments' Workshops. It is their business to send out 'O & M' teams to overhaul the Civil Service Machinery and to see that every wheel runs true. The 'O & M' man is the Civil Service's nearest approach to the efficiency expert and the industrial consultant of the industry.<sup>1</sup> According to S. B. Bapat, the founder of the 'O & M' movement in India, 'In simple terms it means paying intelligent and critical attention not only to what is done but also to how it is done and at what cost, in what time, labour and money; paying attention to the design of the machine and its working process and not merely to its end product.'

One of the important functions of the Organisation and

<sup>1</sup> A. Critchley, *The Civil Service Today*, 35.

Methods Division is to conduct special studies and researches relating to procedures followed in government departments, and offices regarding the disposal of government business and to suggest from time to time, measures which may be adopted to eliminate delays, effect economy in administration and improve the efficiency of working of government offices. Thus it is a practical study, and a continuous review of organisation and methods in relation to office methods in the light of changing requirements and accumulated experience. As the name signifies, the O & M activities have been broadly divided into two categories : (a) relating to organisation, and (b) methods and procedures of work followed in the organisation. The functions of the O & M Division are generally advisory in character,<sup>1</sup> i.e., it is an advisory service.

The purpose of O & M is research in the office, to design methods that will give management what is required at a minimum of cost and an organisation that will work smoothly and economically. 'O & M' is rightly considered as the key to whatever degree of efficiency the department may possess. 'O & M' Division aims at effecting economies of time, effort and materials through the introduction of improved methods and procedures based on the best available management techniques. Its concern is not so much with the machinery of government as with office management. It deals with such matters as filing systems, forms, office machinery and equipment, costing procedures, etc. Broadly, the working of the 'O & M' organisation 'involves the simplification of organisation structure, of management structure and records, of the work of the office, or the simplification of any administrative work.'<sup>2</sup>

The technique of O & M is very simple. Generally speaking, it is nothing but work study applied to clerical problems. Work study is defined as a term which embraces the techniques of 'method study and work measurement which are employed to ensure the best possible use of human and material resources in carrying out a specific activity.' In short, things, which can be looked after by the O & M in administration are : (1) Clearance procedures ; in what stages, in what items, and at what levels. (2) Improvement in budgeting and financial control. (3) Movement of papers and their processing. (4) Quicker actions, elimination of delays. (5) Checks and counter-checks. (6) Defining levels of discretion. (7) Analytical work studies of department. We may, therefore, conclude that the O & M is a unique institution and if it functions properly, it is bound to bring about an all-round improvement in efficiency and would certainly succeed in eliminating wastage in the Government machinery.

Our leaders have adopted the goal of a Welfare State and taken

<sup>1</sup> R. K. Rangan, *O & M in the Government of India*, 2-3.

<sup>2</sup> G. E. Milward, *Organisation and Methods*, XV.

up the task of developing the economy of the country on socialist lines. In order to achieve these ends in the shortest possible time, it is extremely necessary to reduce or eliminate red-tape and curtail unnecessary procedures. The Organisation and Methods in Government of India is of very recent origin; as it was created in March 1954. It is located in the Cabinet Secretariat, and functions directly under the Prime Minister. The primary objectives of the Division are : (a) to supply the leadership and drive, and (b) to build up a common fund of information by cooperative efforts, experience and competence in O & M work. In the initial stages the O & M activities had three-fold objectives : (1) to ascertain the actual condition of the working of the Government offices and to detect defects and deficiencies. (2) to lay down a common system of office procedure in place of one which was falling in disuse ; and (3) to make all concerned conscious of the need for introducing efficiency in Government Offices. The Division is headed by the Director, who is assisted by a Deputy Director, other subordinate officers and Secretariat staff. Its work is mainly carried on through the O & M Units set up in each Ministry and Department, each under the charge of a Deputy Secretary functioning as its internal O & M officer in addition to other duties.

From the 'methods' point of view, the object of the O & M unit is to increase efficiency, *i.e.*, to secure the maximum return for the expenditure of a given amount of energy and resources. In other words, the attention to methods is primarily for the purpose of increasing the productivity of the individuals. A brief account of the type of work done by the O & M organisation according to R. K. Rangan, is as follows : One of the most common features in India is the delay in the transaction of Government business and in the final disposal of communications from the public. Accordingly, a simple control mechanism was introduced in July 1954 for getting an objective picture of the speed of disposal of work. The receipts were classified as 'primary' and 'subsidiary', depending upon their nature. Primary receipts are those which provide a starting point for initial action; and all other receipts are classified as 'subsidiary' receipts. Each Ministry now maintains a 'control chart' showing the time taken in terms of weeks for the final disposal of the primary receipts. Apart from a chart two other statements form an integral part of the O & M 'control mechanism', *viz.*, (i) weekly statements of receipt and cases pending action by dealing hands; and (ii) monthly statement of cases pending disposal for more than a month.

O & M Officers are also expected to do inspection work. It was realised that emphasis on speed was likely to discount quality, so the O & M Division instituted 'Quality Control Drives.' Another regular feature of its work is the holding of joint meetings of the O & M Officers of the various Ministries and Departments to

discuss problems of common concern. The O & M Division studies the minutes of these meetings and brings to the notice of O & M Officers of other Ministries and Department matters of common interest. The O & M Division, in collaboration with the Special Reorganisation Unit (SRU) of the Union Ministry of Finance, initiated training in the techniques of work-study.

To avoid too much of noting, counter-noting and passing of files O & M Division has enjoined on the Ministries that more use should be made of the method of personal discussions in inter-departmental consultations. The O & M Division has also published useful material, e.g., A Handbook for Establishment Officers containing for ready reference the rules, regulations and relevant Government Orders, etc. Another pamphlet contains a list of financial and cognate powers delegated to the various administrative authorities. A very popular publication is the Central Secretariat Manual of Office Procedure.

## CHAPTER XXIII

# REFORM OF ADMINISTRATIVE STRUCTURE AND PROCEDURE

### I. GENERAL CONSIDERATIONS

'The system, methods and procedures of administration in India have remained mostly the same as the British had devised. But they are inadequate to the task of promoting the welfare of the people through positive programmes of socio-economic development. It was, therefore, natural that during the last two decades, the Central and State Governments, the political leaders, the civil servants and scholars of administration should have attempted to reform the administration so as to make it a fit instrument for carrying out the social and economic policies of the Government and achieving social and economic goals of development, as also one which is responsive to the people.' But these attempts were sporadic, limited in scope and their implementation was perfunctory and half-hearted.<sup>1</sup>

Some of the common complaints of citizens with regard to the prevailing system of administration may be stated as : (a) there is a lack of regard for the convenience and comfort of citizen; (b) there is lack of normal courtesy on the part of public servants, particularly at the lower levels; (c) the officials are not interested in helping citizens; (d) there is a lack of sense of urgency resulting in decisions being delayed, which in a large number of cases lead to corruption; (e) decisions are taken on grounds other than merit, *i.e.* on considerations of caste, religion, politics, etc. and (f) rules are complicated and procedures are lengthy, which compel citizens to visit government offices again and again; and (g) there is a growing feeling among the common men that nothing will move in administration unless one is backed by money or political influence or social status.

Such is the image of country's Public Administration in the minds of the people. In these circumstances, the necessity of high moral standards for both the government and the administration can hardly be exaggerated. It is not enough to act with integrity; moral standards like justice must not only be observed but must be

<sup>1</sup> See O. P. Motiwal, *Changing Aspects of Administration in India*, 3.

seen to be observed. There is a kind of 'slack' in the administration owing to which it has not been working efficiently. Energetic steps are, therefore, necessary to remove this 'slack'. The two most important things which will help in this direction are : (i) identity of interest among all categories of employees in the organisation; and (ii) a feeling that methods of business-like working are not only for subordinate ranks but for all including the Ministers. There is a great need for adequate and timely punishment for the lapses, but no distinction should be made in this respect among the public servants of different categories.

In addition to the above, all government servants should realise : (a) That India now has a democratic system, in which the people, while delegating their power and authority to the government, have reserved to themselves certain fundamental rights beyond the reach of majorities and officials. (b) That the changed structure calls for an immediate change in the attitude of the servants. There is need of reorientation of the outlook of civil servants, the objective being the service of the masters—the people of India. (c) That there is not only an expansion and change of work, but there is also change in the nature of work; therefore, the civil servants of to day have to be public spirited, imaginative and be imbued with a creative sense of building the country. (d) That the traditional service virtues viz. efficiency, integrity, honesty and loyalty, have even greater relevance to-day than in the past. (e) That no organisation can work without system, regularity and discipline and there has to be a method of performing everything. (f) That civil servants should serve with equal loyalty whatever the political complexion of the Government.<sup>1</sup>

While administrative reform usually signifies a formal, mechanistic and planned process of structured change, there could be the other view of reform which comes not so much as a result of deliberately contrived artificial stimuli but in the normal process of unfolding of political, economic and administrative functioning. Here, the motivation comes wholly or primarily from other sectors and administrative sub-system merely catches up with changes in those fields. To take the Indian example, the development process had had tremendous impact on public administration itself. The volume of new tasks had led to significant growth in the number of governmental agencies as also in the number and variety of government employees. Then, new forms of organisations have come into existence, through compulsions of fulfilling the manifold programmes, particularly for the management of public sector enterprises and for extension work in the districts. Many administrative changes have been the by-product of the primary act of social,

<sup>1</sup> B. Mehta, *Dynamics of State Administration*, 154-59.

economic and political development and have come almost as a matter of course rather than through the pioneering acts of, say, 'reform engineers'.

There is the direct method of bringing about administrative change through the head of an organization or the policy-making group in the enterprise, who, in the course of normal operations, might feel that certain inadequacies need to be remedied and loopholes leading to efficiency-leakage plugged. There need not necessarily be any outside or superior directives for undertaking such reform-measures except the management's own decision to experiment with different organizational form, procedural rationalization or even new personnel engineering for rendering better service or clientele satisfaction. These are the acts of really forward-looking, innovative management-men, with progressive ideas and creative thinking. The impact of such reforms from 'within' may or may not appear very impressive to outsiders but, in terms of the organizational performance and clientele satisfaction, the reforms may be profound.

Quite apart from an individual or a group of innovating managers planning significant changes in the organizations under them, the nodal agencies in charge of particular functions may also initiate and sustain reforms movement. The agencies, like the Department of Personnel, Ministry of Finance or the Planning Commission, having controlling responsibility for specific functions may bring about, through constant study, analysis and research, significant changes which will have lasting impact on the policies and performance.

When, however, there is any complex problem, a long-standing vexed question or an urgent explosive issue which cannot be considered in the normal administrative process and which is found to be beyond the capability of the day's administration because of either lack of time or paucity of expertise, it may be entrusted to a specially constituted committee/commission. Additional grounds for such a committee or process may be achievement of objectivity and impartiality, winning political objective at the same time. The reports and recommendations of these ad hoc committees/commissions, have induced quite many major reforms by way of injecting radical thinking-inputs in the formulation of policies, their contents, the styles of organizational functioning and the whole complex of programme implementation. In India, there is a really rich harvest of administrative reforms through such ad hoc, sectoral committees. It would be true to say that there has remained perhaps not a single substantive sector in administration which, after Independence, has escaped 'committization'.

'A more direct and quicker method of achieving reforms in administration is the adoption of 'agency technique' under which

the whole gamut of administration is exposed for a critical fresh look and the responsibility for a wide-ranging investigation is handed over to a temporary yet comprehensive Reforms Commissioner or a permanent Reforms Department. The methodology of investigation would, of course, vary depending on the nature of the agency of institution, its reference-frames, membership, staffing and time allowed. Whatever the approach they adopt—macro or micro or combination of both—on the strength of specific policy-decision, the fact remains that the objective in having such an institutional medium is to achieve administrative modernization and system-revitalization in an organized, direct and frontal fashion. This technique obviously views administrative reforms not as a by-product of some other developmental programmes effort but as the main product.<sup>1</sup>

## II. SOME MINOR SUGGESTIONS FOR REFORM

The Estimate Committee was struck by a dispersal of subjects and functions closely allied in nature over a number of ministries and departments, leading to a general lack of co-ordination of functions and of unified control over the same kind of subjects. It accordingly made some specific recommendations for amalgamation of certain ministries and abolition of some offices. The Committee in its second report to the first Lok Sabha suggested : (i) The secretariat should continue its role to policy-making, leaving execution of policies with the attached and subordinate offices. It said that the proposal of the head of attached offices must not be scrutinized by an assistant in the secretariat as was the practice. Such proposal must be attended to by officers of equivalent or higher rank in the secretariat. (ii) Audit should be separated from accounting. The Comptroller and Auditor-General should concern himself with audit functions only. The function of compilation and maintenance of accounts and making of payment should devolve on the ministry concerned. (This reform has now been carried out). (iii) The treasuries should be abolished and the functions performed by them should be taken over by a bank. (iv) An officer directly responsible to the Prime Minister should be appointed in the Cabinet Secretariat to receive complaints from citizens as well as government departments in regard to delays in the disposal of letters or references in the various government departments.

The Second Pay Commission, 1959 favoured a major modification in the present method of work in the secretariat. It observed : 'The standard arrangement at present is that a ministry and each of its attached offices has its own separate 'office' ; and correspondence

<sup>1</sup> Bata K. Dey, 'Administrative Reform—A Perspective Analysis', *I. J. P. A.*, July-September 1971, 563-67.



between the ministry and an attached office is normally carried on through self-contained communications. There are some variations from the standard arrangement, however, each of them designed to facilitate smoother or more expeditious transaction of business in the ministry concerned. The most notable among the variations is the arrangement between the ministry of communications and the director-general of posts and telegraphs, and we suggest that the government may have the feasibility of introducing a similar arrangement in other ministries examined. The arrangement, in brief, is that the secretariat and the attached offices are combined into a single headquarters organization; a common 'office' services the secretariat officers as well as the head of department; there is only one file bureau, and all references, including precedents, whether required by the head of department or by the secretariat officers are put up by the same dealing hand and section officer. At the secretariat level, all noting is done by officers of and above the rank of under secretary, who have no exclusive 'office' staff apart from stenographers or steno-typists. Such an arrangement avoids duplication of work, economises on office staff, and is conducive to speedy despatch of business'.

The Commission also examined the attached and the subordinate offices in the central government and recommended functionalism as the true basis of distinction between the attached offices and the subordinate offices. According to it the 'offices which are closely and directly associated with the ministries or departments of the Government of India in the shaping of policies by furnishing essential technical data and advice, and providing executive direction to the departments etc., which are responsible for implementing the policies or decision of the government should be regarded as attached offices'; and the 'departments or offices which are responsible mainly for the execution of policies and programmes of the government should be regarded as subordinate offices.'

On the generalist-specialist controversy, the Commission adopted a pragmatic view. It sought a reconciliation of the claims of these two classes by propounding the following formula: 'Where the work of a department is mainly technical, it is desirable, in our view, that the secretary should be a person who, while possessing administrative ability and capable of taking a broad government-wide view of matters, has a technical background in the particular field. In a department which has a considerable amount of technical as well as administrative work, the secretary may be either a technical officer, with proved administrative capacity, or a generalist administrator; technical officers would not be excluded from the field of choice, on a *priority* considerations, but should be considered on merits. Further, the top technical advisers or heads of departments should have full opportunity to have their views considered by the

minister, along with any views which the secretary of the department may have; for which a suitable arrangement may be a joint discussion with the minister, whenever there is an unresolved difference of opinion between the technical head and the secretary. The basic idea governing the relationship between the two must be the recognition that the former should have an effective share in the framing of policies and programmes at the highest official level. We are, however, clearly of the view that the functions of head of department and secretary should not normally be combined—whether the secretary is a general administrator or a technical or a professional officer.<sup>1</sup>

In its report on 'Finance, Audit and Accounts' submitted to the Prime Minister on 13 January, 1968, the ARC recommended the introduction of Performance Budgeting in all development departments by 1970–71.<sup>2</sup> Another set of reforms recommended by the Commission concerns the development of a positive attitude among the audit authorities. They should take into account the overall background relating to the transactions commented upon. The Commission favoured the liberalization of industrial licensing and the control of capital issues. It also recommended institutional measures for export promotion and better management of foreign exchange. Finally, it recommended the setting up of a high-powered Commission on 'Prices, Cost and Tariff' to help the Government in evolving rational price policies and for promoting a climate of cost-consciousness.

### III. REFORM OF ADMINISTRATIVE STRUCTURE

#### LACK OF COHERENCE AT THE CABINET LEVEL

At cabinet level there is a lack of coherence in the allocation of portfolios. In some cases ministers have to deal with such a wide variety of subjects that they cannot find time to go deep into any of them. As these subjects are often unrelated to each other contact has to be maintained with a number of different departments resulting in a fragmentation of the time, thought and energy of the minister. 'The most distressing feature of the administrative scene and its greatest disability, especially at the centre, is the lack of coherence and sufficient co-ordination. Ministers which are really the limbs of government and not separate, self-contained entities often seem to function as if they are self-willed and governed by laws of their own. This lack of coherence is obviously a crippling incapacity of government as a whole for achieving results and leads to a lot of waste of energy, cross purposes and negatory effort.'<sup>3</sup>

<sup>1</sup> See S. R. Maheshwari, *op. cit.*, 257–59.

<sup>2</sup> This has already been discussed in Chapter 15.

<sup>3</sup> S. G. Barve, *Good Government*, 16–17.

The consequence is that ministers blame a too rigid bureaucracy, administrators blame politicians for interference, heads of department blame bureaucracy for a lack of imagination ; bureaucrats blame technical heads for narrow-mindedness and officers in districts blame officers at headquarters for being remote from reality. 'And so the game goes on, each one trying to pass the buck to someone else with no one willing to take responsibility squarely on himself.'<sup>1</sup> Effort should be directed to secure better coherence at the cabinet level and co-ordination both vertical and horizontal. The administration as a whole can function satisfactorily only if the various units in the structure are coherently conceived, the operative policies clearly and unambiguously laid down and each unit operates at its appropriate level of responsibility and powers. The Ministers must function at the levels of policy making and of general supervision and accountability for its implementation. The Central and State Secretariats must operate at their appropriate levels. The departmental administration at the centre and in the States and the executive agencies have also their respective limits of power and delegated authority.

#### RELATIONSHIP BETWEEN THE CENTRE AND THE STATES

Since our Constitution is federal, a proper relationship between the federal administration and the State administrations should be achieved if the administrative organisation as a whole is to function satisfactorily. In each federation such an equilibrium between the federal Centre and the constituent units has to be forged. This equation is necessarily a reflection of the national homogeneity, the constitutional position as well as the imperatives of the times. Apart from the State and Central sectors of the executive responsibility there are fields of action in which programmes necessarily predicate a coherence and co-partnership between the Centre and the States.

This is absolutely necessary because while in some fields the implementation lies wholly in the State sector the policies are laid down by the Centre. In other fields the role of the Central Government may be that of tendering counsel, fixing national targets and generally promoting efforts in the right direction while the actual implementation falls within the State field of action. At the present the States are mainly dependent on the Centre for the financing of their development plans. This position has created special problems of administrative co-ordination between the Centre and the States. The financial relationship between the States and the Union must be such as to foster the sense of financial responsibility, of financial autonomy and of financial self-help within the different States.

<sup>1</sup> See Banerjee and Chowdhury, 'New Look for Government', *Sunday Standard*, 10 December 1965.

## GROWTH OF PUBLIC UNDERTAKINGS

During the last 15 years there has been a phenomenal rise in the number of public undertakings. Certain departments of the Central secretariat are now in charge of administrative bodies of varied organisational forms with activities varying from running hotels, sowing potatoes, hatching eggs to manufacturing aeroplanes, telephones and ships, chemicals and eatables and are even concerned with all sorts of other commodities ranging from the supply of milk to the production of opium. Such a functional revolution and the consequent organisational experimentation has not ceased to operate as yet. As a result, the so-called distinction between the public and private administration no longer seems to hold good. All those responsible for running the various types of public undertakings, whether organised as a statutory corporation, a departmental undertaking or as a company, have been told to show 'profit'. It has already led to the creation of an Industrial Management Pool.

## CIVIL SERVICE REFORM

The country needs a civil service particularly suited to the requirements of a democracy working for a welfare state. The civil servants should give up their arrogance and class consciousness, and they should cultivate the quality of civility and service in their dealings with the common people. They must also possess two other essential qualities—efficiency and integrity, which will be discussed in the following sections. Greater attention should be given to the training of civil servants for the varied tasks they are expected to perform. There is one other aspect to which a brief reference is necessary here. It is the question of proper relationship between the ministers and higher civil servants. 'As one goes round the country one hears many stories of how civil servants find their sense of initiative and their desire to offer independent advice sapped and destroyed by ministers who are overbearing and sometimes openly discourteous.'

It is true that the quality of the administrative personnel of superior rank has seriously gone down in recent years in certain important respects. The number of officers who will dare to give unpalatable advice when their duty requires it is rapidly declining. This, however, is because unpalatable advice even when honest is often not relished by the ministers. Again, the integrity of administration is undermined by political pressures and interference at the level of individual officers, as a result of which the machinery of government is suborned or abused.

## ORGANISATIONAL REFORMS

The Administrative Reforms Commission identified the major organizational deficiencies as multiplicity of agencies,

overlapping and diffusion of functions and proliferation of personnel. In Commission's view, the methods and procedures were ill-suited for proper policy formulation as well as for efficient programme execution and the level of decision-making was being pushed upwards. Powers and responsibility did not match in several cases and there was overcentralization of authority in administrative ministries and departments, and a desire on their part to protect their 'preserves' jealously. The arrangements for co-ordination were hardly adequate; and there was a marked tendency towards too much cross references.

The ARC suggested organizational reforms largely in seven main directions as follows : (1) a more rational distribution of work in the secretariat and among the executive agencies; (2) improvement of arrangements for coordination; (3) reduction in administrative agencies and staff; (4) strengthening of the top structure and adoption of board-type of management; (5) reduction in levels of consideration; (6) integration with the secretariat of the field agencies; and (7) delegation of powers.

As regards grouping of subjects at the secretariat levels, the ARC recommended for the Centre an overall scheme of reorganization of ministries and departments into 16 Ministers' portfolios and 38 departments (including Ministries without any department) as against 19 Ministers' portfolios and 40 departments existing in September, 1968. This was based on considerations of rationality and efficient manageability of charges, tempered with the need for economy. This Study Team observed, 'The criterion of rationality is not applicable everywhere, but where it is, the grouping of subjects according to this principle can lead to the most effective type of coordination. Where this principle is not applicable, the only course to adopt is to have heterogeneous grouping subject to manageability of individual charges. An additional principle kept in view, both by the Study Team and the ARC, was that of stability. The ARC noted, 'In the past, Ministries and Departments have been split often to suit particular political exigencies. This has naturally affected adversely the efficient working of the government machinery and created fresh problems of coordination.'

The ARC proposals for reduction in the number of administrative agencies and personnel appears to have been very much dominated by considerations of efficiency and economy. It urged that the Planning Commission should reduce its personnel and expenditure, that the executive staff in the public sector undertakings should be substantially pruned, and that the planning and technical cells to be set up in the central departments and ministries should be of small size. It favoured the rationalization of executive departments in States and the retention only of those regional offices which sub-served some definite administrative needs. It emphasized that the

proliferation of personnel must be checked, and that the staff strength of all organizations should be reviewed by O&M or Work Study units.

Another set of recommendations of the ARC relates to the transfer of the executive work from the Secretariat to the field agencies. It was urged that the centrally sponsored schemes should be reduced to the minimum and that items of work which, properly speaking, should not be handled by the Centre should be transferred to the States. This, and the decentralization of planning in those fields of development in which it can be more advantageously organized, supervised and implemented at the State and lower levels, has been proposed more for political reasons than for considerations of economy and efficiency. Notwithstanding its general approach of economy, the ARC did in some places recommend the creation of new offices and posts. It favoured strengthening of Finance and Accounts Branches of administrative ministries, creation of a full evaluation wing in the Planning Commission, etc.

With a view to preventing fragmentation of industrial effort in the public sector, the ARC recommended setting up of sector corporations in eight industrial and manufacturing areas as well as for air transport, shipping, hotels and tourism. The sector corporation may be considered an improved organizational form which would help promote and coordinate activities in the fields of industrial development, personnel recruitment and development, R and D sales, wage policy, etc., in a segment of public enterprises of the same or allied character, on an integrated basis. Unfortunately, the Government has not accepted this recommendation.

For developing organizational capacity in the top structure, the ARC appears to hold a brief for the board type of management. In the area of regulatory-developmental administration, the ARC has favoured constitution of development boards (e.g., a Coal Development Board and a Textiles Development Board) consisting of technologists, economists and management experts. Other collegiate type of top management organizations suggested by the ARC include a Commission on Prices, Cost and Tariff, a Small Scale Industries Commission, State Planning Boards, a National Council and a Coordination Committee for Science and Technology, reconstitution of the Council of Scientific and Industrial Research into 5 separate commissions (on the pattern of Atomic Energy Commission) on the basis of well-defined groups of allied disciplines, an Inter-State Council on Centre-State Relationships, and Policy Advisory Committee in each Ministry or major Department. The latter would consist of the heads of all secretariat 'substantive work' wings (including the heads of non-secretariat organizations to be integrated with the secretariat) and would make possible enmeshing of several strands of expertise and a group approach to problem solving.

A central theme of the ARC scheme of reorganization of structures and methods is the reduction in the number of the levels of consideration in order to prevent delays and promote quick decisions. Building on the previous experiments with the pilot section and the attache system and the more recent experience with the officer-oriented pattern in the Works Division of the Ministry of Works and Housing, the ARC has recommended the adoption of desk-officer system. Under the proposed system, the work would flow direct to each officer who would be required and empowered to dispose of a substantial amount of it on his own, taking guidance from senior officers where necessary. An allied recommendation is that the number of levels of consideration and decision-making in the Central and State Secretariats should be reduced to two, namely : (i) Under Secretary/Deputy Secretary, and (ii) Joint Secretary/Additional Secretary, the existing functionaries known as assistant and section officers being utilized as staff aids. It deserves to be noted that the Study Team on the Machinery of Government of India and its Procedures of Work had suggested three levels of consideration and decision-making. Initially, the Commission agreed with the Study Team but later it decided upon two levels. However, in some of the other reports, the ARC has proposed three levels, e.g., in the Directorates of Industries in the States and the Planning Commission.

The ARC has supported the recommendations of the Study Team for the reorganization of secretariat wings to provide for homogeneous charges, unity of command and a distinct budget. The Study Team had also recommended a flexible flat type of organization with three levels, each level having more than one pay scale, an increase in the span of control of the Joint Secretary from two to three divisions plus a cell for planning and policy, a registry and a unit of office management. But the ARC did not accept these recommendations. The Study Team had also proposed a total elimination of noting below the level of the 'chief' of the secretariat wing. The ARC, however, recommended a cautious approach in the matter and proposed that noting should be confined to the more essential matters. It has, all the same, supported the Study Team's proposal that policy matters should be processed by preparation of self-contained memoranda.

Another vital area of organizational reforms covered by the ARC is secretariat-field relations. Among the important causes of tension in this field, mentioned by the ARC, are the frustrating control by the secretariat which is not well familiar with field conditions, the lack of understanding between the secretariat personnel (mostly generalists) and the field staff (largely specialists) and the involvement of the lower echelons in checking proposals put forward by the heads of the non-secretariat agencies. The Commission has

noted that a recent trend has been toward according ex-officio status to heads of a number of non-secretariat organizations. A more recent development is the placing of heads of certain non-secretariat organizations in the concerned Ministries, e.g., the Commissioner of Family Planning, Director-Generals of Border Roads, Security Force, and Civil Defence. A radical reform in the present pattern of secretariat-field relations has been mooted by the ARC Study Team on the Machinery of Government of India and its Procedures of Work. It has proposed a total abolition of the present invidious distinction between the secretariat and the non-secretariat organizations and integration of all important non-secretariat agencies with the secretariat, their heads serving as principal advisers to the Government in their respective areas on all operational matters including operational policy.<sup>1</sup>

#### IV. ADMINISTRATIVE DELAYS

Administrative delays have become such a usual matter in our daily dealings with government offices that people have even ceased complaining. The minimum time for an import licence to be obtained from the office of the controller is 3 months, often it is 6 months. Sometime years pass by after the retirement of a government employee before he begins to receive his pension; no decision is taken about the repairs to a dam or about action against negligent or inefficient officials for several years; requests for the supply of drugs or appliances to a Government hospital or dispensary are not attended to for several weeks. The list of such instances could be multiplied.

Paul H. Appleby in one of his visits to India told H. V. R. Iengar that the Department of Agriculture (in USA) used to receive, both in Washington and its regional offices, several hundred thousand letters a year, perhaps a million and a half. The average time taken to reply to them was three days and every single letter was replied to. Putting his point very softly but with candour, he said: 'In our democracy we believe that Government are there to serve the people. A man writing to Government is entitled to a reply. If he does not get one, he will probably call at the office of the Senator or the Congressman of his district and that gentleman will raise hell with the Department. Apart from procedure, the fundamental difference between our democracy and yours is that of attitude. Your people are evidently accustomed to not getting replies from Government.'<sup>2</sup>

There are several reasons for administrative delays. The first

<sup>1</sup> B. S. Narula, 'ARC-Perspective and Findings', *I. J. P. A.*, Oct-Dec. 1971, 637-44.

<sup>2</sup> H. V. R. Iengar, 'Jungle of Administrative Delays', *Indian Express*, 18 August 1965.



reason for delays is the complicated nature of administrative forms and procedures. The administrative Reforms Commission has been very critical of the tortuous and dilatory procedures which cause inconvenience and harassment to the public. Measures adopted to simplify procedures in the past have not produced encouraging results. The O & M Division and the Department of Administrative Reforms have been devoting much time and attention to this problem. *Second*, according to Appleby, specific decisions incident to effectuation of purpose in India are reviewed by too many organs of the government in too detailed, too repetitive and too negative terms. The process of review is unbelievably petty and frustrating. Even an assistant in the Finance Ministry can scotch a well-laid plan or at least delay its execution on trivial grounds.

*Third*, according to D. D. Karve, 'the blame for this state of affairs rests mainly on the officers and heads of offices. They have become callous, lazy and inefficient. They hardly ever ask why there was such a long interval between the receipt of a letter and the date reply is put up for signature.' They never care to prepare a draft of a reply, even if they have free time, they themselves do not read a file or discover the salient points, all this must be cooked for them by their sub-ordinates. *Fourth*, most government officials look upon members of the public as applicants for favours. Certificates, permits, information etc., which persons are entitled to are given after inordinate delays not as a matter of right but as favours bestowed.

*Fifth*, delay in Government offices is not only operational but also on account of mental attitudes. 'Fastidiousness for maintaining one view, however, rigid and out of time it may be, lack of responsiveness to changed circumstances, rigidity about the procedures, too much dependence on precedents, and showing the worth in hair-splitting requiring prolonged consideration of small matters are the causes of these delays. A commercial organisation cannot brook any delay on such procedures or else someone is sure to get himself out of office.'

Finally, several minor causes contribute to administrative delays. Most of the administrative delays to-day are primarily the result of the highly bureaucratic attitude of civil servants engaged on establishment and financial work. At the same time the majority of the clerical staff does not have adequate training in office work, such as correspondence, filing etc. Laxity in office discipline is another important cause. Clerks and typists usually spend much of their time in chatting with their neighbours, taking several cups of tea and often going to the wash. Last but not the least important cause is the unduly long time taken in inter-departmental consultations.

#### SUGGESTED REMEDIES

Jawaharlal Nehru expressed disappointment at the slow rate at

which things were moving in the ministries. He said that procedural improvements must ensure that if a file has to travel from Ministry to Ministry, or if a project has to be cleared by a number of different governmental authorities, the time taken at each stage should be the minimum. At the instance of the Prime Minister, a ministerial level committee was constituted on 15 June 1965 to consider the question of administrative delays and other matters. According to the Committee it would greatly improve matters in government offices if the following suggestions are kept in view :

(1) The manpower should be fully utilised. In government offices even highly-paid officers are not put to full use. Secretariat superintendents drawing Rs. 500-700 are only working as post offices who cannot take any decisions under the rules. What to say of superintendents even under-secretaries and deputy-secretaries cannot take any decision. This creates a habit in officers of shifting files from their tables on one pretext or other and waste their time and labour. (2) At the same time officers are too much in the habit of consulting each other with a view to escape responsibility. (3) Again, there is a tendency that on the pretext of seeking clarification often unnecessary queries are made. A procedure should be developed in which after preparing the points for discussion the officers meet and come to a decision instead of wasting time. (4) There should be a closer liaison between the heads of departments and the secretariat. (5) The most important measure for speeding up of decisions and clearances is the wide use of delegations. Delegations have to be made boldly by government to heads of departments and by heads of departments to lower authorities. (6) The adoption of labour saving and time-saving devices, such as telephones, dictaphones, duplicators etc.

It is not only the physical conditions of the office that require immediate attention. Filing, recording of documents, and handling of correspondence also require to be improved. The procedures in vogue at present are those that were evolved in prewar and pre-Independence years, when the offices were very much smaller in size. No serious attempts have been made to change and adapt these to suit the altered conditions.

To the above, we would like to add the following suggestions :

(1) Adequate provision should be made for the training of junior staff in office work. (2) The Senior officers should set an example in doing office work. (3) Senior officials should also exercise much more strict supervision over their juniors. (4) Since greater delay is caused when a case has to be seen by more than one department before a decision is taken, it may be suggested that disposal could be speeded up if there was a rule in all secretariats of having a day once a month on which all files that have been pending in inter-departmental references for two months were brought before a joint

meeting of the secretaries, discussed and agreed on or the opposed views recorded. (5) A. D. Gorwala wrote in 1951 : 'Most files, however, when kept for a week or so, seem to develop a species of inertia and dead weight. It is almost as if they had become sentient beings with a will directed against further movement, and a will which often succeeds in prevailing over even the strong-minded. Consequently, the wise official will make it a rule not to allow a file to remain longer with himself than is absolutely necessary.'

Finally, an important direction to which immediate attention has to be paid is the level at which papers should be dealt with. The present system of almost all papers being dealt with first at the level of the dealing assistant (UDC) and his note going to an officer of the gazetted rank needs to be thoroughly overhauled to bring to bear on the method of disposal of such papers, the wider perspective of a welfare state and the exercise of delegated authority to ensure speedy disposal. There is, therefore, need to reorganize the work in offices, in compact cells around officers so that majority of cases are disposed of directly by the officers, by calling for the relevant record, studying it and disposing it by the quick decision dictated to the stenographer provided to him.

This system has been introduced in the Secretariat in some States and has been found working satisfactorily. There is need to extend this now to the level of Heads of Departments. This may result in the creation of more posts of officers but there will simultaneously be a decrease in the ministerial strength. Thus there would be few men working, but they would be more responsible. Moreover, in such an organization it would be possible to pin down responsibility and that would certainly engender more responsible action. This system to be effective would call for a carefully planned system of continuous in-service training, both to the officers as well as to other subordinates working with them.

## V. INEFFICIENCY

It may be asserted that efficiency in government offices has been the first victim of Independence. There is a wide-spread belief that administration since Independence has become increasingly inefficient. It has rightly been remarked that the people are willing to shoulder great burdens if only they feel assured that the resources raised by the government will be utilised with economy and with efficiency, and there will be no wastage. It will also be admitted that economy goes with efficiency ; naturally, therefore, inefficient administration is responsible for much waste of time and money.

### REASONS FOR INEFFICIENCY

*First*, the quality of administrative personnel—both of superior

and inferior rank is usually low and debased. For this state of affairs three factors are mainly responsible : (i) very rapid promotions, (ii) fall in educational standards, and (iii) moral degeneration. *Second*, in most cases inefficiency results from faulty relation between two units or from faulty functioning within the unit itself. To take an example, there is usually interference from the side of ministers in the work of the secretariat and heads of departments. 'The result is that the head of the department is deprived of all initiative and instead of being allowed to attend to and make progress with his own work, has to spend a great deal of time submitting unnecessary reports, explaining the position in individual matters to the Ministry and getting its orders on points which will be within his own sphere of authority. The attempt by a Ministry to do the work of the head of a department invariably ends in efficiency and failure. The work is delayed, it gets badly done, and when things go wrong, there is no single person who can be held responsible.<sup>1</sup>

*Third*, discipline in government offices since 1947 has been growing more and more lax. Most of the senior, as well as junior, civil servants greatly lack in the essential qualities of regularity, punctuality and honest work. Usually they while away much of their office time in gossip, undesirable discussions, reading magazines, etc. An important reason for this state of affairs is the fact that in government service so far there is neither reward for good work nor punishment for bad work or neglect of duty. At the same time, promotions are generally made on the basis of seniority. In recent years there has also been a marked growth in union activities of government employees. Finally, in a very large measure, blame for inefficiency in government offices and for the slow progress of planning and development of the country is rightly given to indifference and red-tapism of the bureaucracy.

Administration is the tool by means of which political power is exercised in society. Accordingly the top administrative officials have to work in close association with the persons in whom the power is vested, and to whom he has to act as an adviser and consultant in policy making. In such circumstances, the administrator is always under the temptation to submit his will and intelligence to the political rulers, who change from time to time. Fear, personal interest and the desire to share in the politician's power often turn the administrator into a yes-man. In this atmosphere officials find it useful to devote their time to keeping their superiors satisfied rather than to attending to the efficiency of their work. One reason why this is so is no doubt the low level of emoluments in government service, but the system of promotions which goes by seniority and not merit also plays a part in this. In such circumstances, however good the official may be at the time of

<sup>1</sup> A. D. Gorwala, *Report on Public Administration*, 40.

recruitment, a few years of service are enough to kill all enterprise, initiative and even character in him.<sup>1</sup>

#### REMEDIAL MEASURES

H. M. Patel rightly observes : 'The process of improving administrative efficiency is a continuous one, and progressively through work studies and in other ways, better methods have to be designed. For the execution of any programme or project, the primary need is to fix specific responsibility on the agency concerned, and within it on particular individuals, within defined limits, each individual should be given full responsibility, and with it, the necessary measure of support and trust. If he fails in the discharge of his responsibility, he should be replaced.' He further says that the tendency to regard only the civil service as administration, and the Ministers as being outside it, is to be regretted, for it is itself responsible for much demoralisation of the civil servants. 'The tone for the administration is indeed set by those who are at the top ; if it is known that the Minister will not tolerate avoidable delay, those working under him would endeavour to see that everything was done expeditiously and efficiently... Standards and traditions cannot be established through lectures in Administrative Training Schools; they have to be established in and through practice. And this is where the code of conduct observed at the top, both among the Ministers and among the senior civil servants plays a vital role.'

For the efficient and satisfactory working of the lower levels of administration, it is not enough to rely upon a system of vigilance or inspections by the higher executives, but there are other positive measures to supplement these, so that better results may follow. These are (1) better selection and training of the low level functionaries, (2) better techniques and more modernisation in work, (3) better physical facilities and conveniences in public offices, (4) better designing of public offices, on the pattern of good commercial firms, (5) lesser emphasis on hierarchical channels and conventions, (6) establishment of public information bureaus concerned with the task of guiding the public, (7) the administrative education of the general public in other ways, and (8) the rationalisation and simplification of form and procedure at the low levels of the district office, the planning office, the post office, the railway booking office, the licensing or any other office.

In spite of rapid growth of public administration in most countries, only insignificant attention has been devoted to educational and training programmes for improving governmental administration. University education in public administration needs to be substantially modified and strengthened. Administration in final analysis is what the administrator desires to do. The

<sup>1</sup> *I J. P. A.*, April-June 1967, 260-61.

machine of course is there, the procedures are there, but you cannot have good administration if the administrative mechanism is worked by bad administrators. Education and training for administration should be such that they motivate the individuals to rise to the highest levels of efficiency and perfection. The quality and calibre of human beings can be improved only by an overhaul of the educational system and by instilling correct attitudes. Moreover, at present there is no system or 'drill' for providing orientation or, 'induction' to officers in respect of the job to which they are posted. As a result, it generally takes new-comers considerable amount of time to acquaint themselves with important subjects and problems before they can start making effective contribution on files. There is need, in all Ministries, for compiling suitable background material which should include a brief information, a summary of major policy decisions and a list of useful readings including books, brochures as well as important files. Such a compilation should be kept upto-date and made available to officers on their first posting to a Ministry or a new assignment within the Ministry.

The Committee on Administration in 1962 agreed with the recommendation of the Second Central Pay Commission that a scheme of cash awards might be introduced for suggestions which contribute to the efficiency, economy and other improvements in government work. The Committee was of the view that it would be desirable to introduce a scheme of payment of awards in suitable form—monetary, merit certificates or special recommendations—for outstanding suggestions leading to lasting improvements in procedures or methods and disposal of work in government organisation. It is essential that an objective system of adjudging merit and suitable rewarding of it by promotions, special increases of pay, etc. should be evolved. This is necessary for obtaining high quality of personnel. Equally effective for the promotion of good administration are the rules for the punishment of inefficiency. It is very necessary that firm disciplinary action is taken against any officer who shirks his responsibility or does his work inefficiently. In order to remove all causes for discontent and indiscipline among government employees, provision should be made for reasonable emoluments, satisfactory conditions of work and joint staff councils on the lines of Whitley Councils.

We may also briefly refer to the various kinds of aids to efficiency. First of all, we may mention the mental aids, which include general study, special study, research and refresher courses, employee counselling, employee participation in work improvement suggestion system. Secondly, there are several emotional factors which contribute to the making or breaking of efficiency. These are : tact, imagination, sympathy and practical sagacity on the part of higher

civil servants. Fear of punishment is important, but greater stress should be laid on pleasures of emulation, the exhilaration at winning the compliments and appreciation of those who count, absence of discontent and motive of public service. Thirdly, personal factors also contribute to the maintenance of efficiency. Important factors in this category are personal cleanliness, good health, wholesome food, regular habits, rest and recreation. Finally, there are a number of external aids which help in increasing efficiency. These may include liberal conditions of work, employment, good conditions of work in offices, supervision incentives and awards, and equipment aids, *i. e.*, modern time-saving mechanical devices.

In the end, we may say a few words about these mechanical devices. Even before automation came into vogue in industries, the question of time-saving office equipments and gadgets like duplicators, multi-liths, dictaphones, etc. had proved their usefulness. No modern government can function with speed and accuracy without the aid of these time-saving machines. Automation has to be accepted to a reasonable degree for the sake of speed and accuracy necessary for modernisation of administration in a vast country like India.

At present over hundred computers are being used in the country to help resolve problems of wagon movements, structural engineering, geological surveys, meteorological and epidemic forecasts, crime records, economic analyses and model building, population census and many other offices. But electronic devices should be introduced gradually and with a definite policy, so that their introduction does not result in creating more unemployment. Things which can be looked after and reviewed continuously by the O & M units and which can lead to efficiency are : (1) Common office procedures, (2) Clearance procedures; in what stages, in what items and at what levels and whether at all required, (3) Existing internal information system for improving the methods of collection of data, storage of information and maintenance of records appropriate to the needs of the organization, (4) Budgeting and financial controls, (5) Movement of papers and their processing, (6) Quicker actions, elimination of delays and internal control system, (7) Existing checks and counter-checks to see how long it is proper to operate on a rule or to take costly safeguards for imaginary acts, (8) Defining levels of discretion, (9) Analytical work-studies by setting up and strengthening the internal work-study units, etc.<sup>1</sup>

<sup>1</sup> See N. M. Mudaliar, *Indian Administration : Today and Tomorrow*, 376.

## CHAPTER XXIV

# THE PROBLEM OF CORRUPTION

### I. WIDE PREVALENCE AND CAUSES OF CORRUPTION

There are no two opinions that corruption in the public services is the greatest single threat to democracy. In July 1964 in a message to a joint conference of the Bharat Sadhu Samaj and Bharat Sewak Samaj held in New Delhi, the then President Dr. Radhakrishnan said that 'Corruption was an evil which had to be fought on all fronts and at all levels.'<sup>1</sup> One may not agree with exaggerated remarks, but no one can deny that corruption in public services is undoubtedly the greatest evil, which contributes very largely to administrative delays and inefficiency. It is also one of the main causes of wasteful expenditure by the Government.

Of the charges levied against the public servants from the moral viewpoint the most serious is that of corruption. By corruption is meant not merely illegal gratification, but any formal advantage obtained by the exercise of his official powers to which an official is not entitled. As a matter of fact corruption in some form has always existed; but the high water-mark of corruption was reached in India, as perhaps in other countries also, during the period of the Second World War. Now there is a general impression that it is difficult to get things done without resorting to corruption. Scope for corruption is greater and the incentive to corrupt stronger at those points of the organisation where substantive decisions are taken in matters like assessment and collection of taxes, determination of eligibility for obtaining licenses, grant of licenses, ensuring fair utilisation of licenses and goods obtained thereunder, giving of contracts, approval of works and acceptance of supplies. Corruption is not confined to lower ranks of public servants and the number of gazetted officers, where cases had to be investigated, was disturbingly large.<sup>1</sup>

But Shri S. Dutt, the then Central Vigilance Commissioner, in the Mussoorie Seminar on Vigilance held at the National Academy of Administration by the CVC in 1969 said : 'There is in the public mind an exaggerated idea about the extent of corruption. I do not think that there is more corruption in the public services in this

<sup>1</sup> Report of the Committee on Prevention of Corruption, New Delhi, *Government of India*, 1964.



country than in other countries of the world'. But what is significant is that in India atmosphere is generally vitiated by corruption, influence, patronage, and abuse of power and wide read inefficiency, whereas in many advanced countries of the world a certain amount of corruption has acted as a spur to efficiency and progress, which has, in fact, made corruption look a bit pale when compared to performance. In contrast, in India, we find corruption or feel the pinch of corruption and still desire to pursue corruption, assuming its predominant role, because there is all-round inefficiency and lack of concern about efficiency. The myth has become greater than the fact of corruption due to general inefficiency.

It is the corruption at the political level to which a good part of the administrative corruption is directly or indirectly accountable. S. G. Barve observed : 'Apart from the wider circle of corruption and nepotism so generated, the want of moral standards in public life is degrading to public morality itself. The cynicism and coarsening of outlook in the younger generation induced by this depravity, in high places is amongst the heaviest tolls that the country is having to pay for this degradation of public life.'

#### CAUSES OF CORRUPTION

The Second World War very adversely affected the efficiency and integrity of the administrative machine. Traditional human values were subordinated to the supreme end of winning the war. After an initial upsurge of idealism, the war led to more exhaustion and a consequent laxity of moral standards. A. D. Gorwala wrote as early as 1951 : 'There is a belief firmly held in some quarters that what we are suffering from today is not so much material poverty or intellectual poverty as spiritual poverty. The problem, it is felt, is essentially ethical. For the great decline in character generally, it is urged that India took part in the last war; though many people shared in the war-effort, for most it was not their war. The spirit of self-sacrifice and high endeavour that comes from participation in a war in defence of ideals was generally absent. Accordingly, the material benefits that came from it not only affected detrimentally the character of those who gained from it enormously in ways legal and illegal, but reduced on the whole the moral calibre of many others. The example set by vast wealth acquired illegally without difficulty and enjoyed freely without the least apprehension was a further factor responsible for the decline in character.'<sup>1</sup>

After the attainment of Independence the Government of India adopted the ideal of a welfare state, resulting not only in the multiplication of the functions of but also the assumption of even new and unfamiliar duties. The sudden extension of the economic activities of the government with a large armoury of regulations,

<sup>1</sup> A. D. Gorwala, *Report on Public Administration*, 5-6,

controls, licences and permits provided new and large opportunities. More and more public utilities have become corrupting factors in administration. The pressures of modern economy have produced a new class of intermediaries to get things done or get things moving. It is widely believed that this new class of 'expeditors' and 'fixers' can manage anything and everything. Moreover, the quest for political power at different levels made successful achievement of the objective more important than the means adopted. Complaints against the highly placed in public life were not dealt with in the manner that they should have been dealt with if public confidence had to be maintained.

The procedures and practices in the working of government offices are also cumbersome and dilatory. The anxiety to avoid delay has encouraged the growth of dishonest practices like the system of speed money. Though efforts have been made by the three Pay Commissions to revise the pay scales, it has to be conceded that some classes of government servants have had to face an appreciable fall in their standard of living. Though this cannot be pleaded in extenuation of the fall in the standard of integrity, the fact remains that economic necessity has, at least in some cases, encouraged those who had the opportunities to succumb to temptations.

Two of the major contributory factors <sup>for</sup> the growth of corruption are : *firstly*, the partially acknowledged unwillingness to deal drastically with corrupt and inefficient public servants; and, *secondly*, the protection given to the services in India, which is greater than that available in the more advanced countries. It was distressing to hear heads of departments confess that even where they were morally convinced that one of the officials working under them was corrupt, they were unable to do anything because of the difficulties in obtaining formal proof, finding or conviction.<sup>1</sup> Both willingness and capacity to corrupt is found in a large measure in the industrial and commercial classes. The ranks of these classes have been swelled by the speculators and adventurers of the war period. Possession of large amounts of money by various persons including those belonging to the industrial and commercial classes is a major impediment in the purification of public life.

'Corruption in the public services is a complex phenomenon. It has sociological, economic, ethico-religious, juristic and even political roots. All these facts must be taken into account in any attempt to tackle this problem.... Corruption is a consequence of the way of life of our acquisitive society where people are judged by what they have rather than by what they are. The possession of material goods seems to have become the *sine quo non* of life. It is evident that many people who seem to be living beyond their means

<sup>1</sup> Report of the Committee on Prevention of Corruption.

are resorting to unsocial modes of acquiring wealth. And yet society does not look down upon them, and there is no social sanction against taking bribes.

In our country there is a subordination of ethics to religion. There is no doubt that among the ordinary and even the middle and the upper classes—there is a tendency to emphasise the externals of religion rather than its reality. Therefore, it is not uncommon to meet the spectacle of persons conforming to the outward requirements of religion and yet resorting to unsocial modes of acquiring wealth without the least qualms of conscience.' Apart from the sociological and ethico-religious bases, corruption has its economic moorings. Whereas corruption in the higher civil servants caters to their luxurious living, resort to it almost became a compelling necessity for the public servants at the lower levels for the satisfaction of their basic needs. 'The rising of the price level more than tenfold of the pre-war level, without any comparable increase in their emoluments is putting a severe, even an unbearable strain on the integrity of the lower strata of officialdom.'

'Inefficient administration and corruption go hand in hand. If strict administrative measures were taken to prevent undue delays in the disposal of cases, the most potent cause of offering illegal gratification would be removed....Cumbersome procedures of dealing with various matters which are of importance to the citizens in their day-to-day affairs, lead to the growth of touts, inter-mediaries or brokers of influence....Perhaps the most fundamental cause of administrative corruption is the growth of discretion vested in officials in consequence of the induction of the welfare state.' Some of the main political causes responsible for corruption have already been mentioned. It may be added here that political parties (especially the ruling party) and political leaders collect large amounts of subscriptions from industrialists, companies, license, permit and quota holders for fighting elections to Parliament and State legislatures as well as elections for high offices in the party organisation on the basis of groups and factions. In return the subscribers secure licenses, permits, quotas and other material gains. At the same time Ministers, Members of Parliament and State Legislatures get their sons and other relatives employed in companies or firms, especially those doing contract business with the Government.

Narayan Hazare observes : 'Corruption owes its origin to important political causes. Though at the top people preach integrity yet more often than not they lack the virtue of example. Ministers are permitted to live in glaring extravagance while they make impassioned appeals for popular sacrifice. Socialism in a Rolls Royce may be eloquent, but it seldom conveys an impression of sincerity. Thus corruption, like sacrifice, starts at the top and, percolating down, colours the whole society....The one-party rule for

nearly the last three decades has also encouraged corruption in our public life. Officials, businessmen, contractors if they establish rapport with the top people in the party have nothing to fear. Big magnets of industry and trade after donating liberally to the party in power, go on indulging in all sorts of malpractices from adulteration to income-tax evasion. Had there been the likelihood of any other party coming into power in the near future such thing would not have happened.<sup>1</sup>

## II. EARLIER STEPS TAKEN TO PREVENT IT

Prior to the passage of the Prevention of Corruption Act of 1947, cases of corruption were dealt with under Section 161, 165 and 165A of the Indian Penal Code. The Act of 1947 registered a great advance in so far as it made offences under these sections 'cognisable'. Police officers of a certain rank, mainly deputy superintendents of police, were authorised to arrest the suspected offenders without the production of a warrant. Section V of this Act created the new offence of 'criminal misconduct'. According to this, if any person charged with the acceptance of illegal gratification, or any person on his behalf, is proved to be in possession of pecuniary resources disproportionate to his known sources of income for which he cannot satisfactorily account, he shall be presumed to be guilty of criminal misconduct in the discharge of his official duties. It may be added that the Government Servants Conduct Rules have long required the registration of their immovable property upon their entry into public service.

In order to step up anti-corruption measures in the administration, the Government of India set up departmental committees in 1962 to examine the extent and modes of corruption and to recommend remedial measures in the following organisations : (1) Ministry of Works, Housing and Supply : (a) Central Public Works Department, (b) Directorate-General of Supplies and Disposals; (2) Ministry of Finance : (a) Income Tax Department, (b) Customs and Central Excise Department ; (3) Ministry of Defence : (a) Military Engineering Services, (b) Army Supply Corps ; and (4) Ministry of Transport and Communications—Department of Communication : (a) Port Trusts, (b) Port Administration. The Government also took measures : (1) to take powers to retire compulsorily, after 25 year service, government servants against whom suspicion regarding their integrity amounting to moral turpitude exists. (2) To prepare a list of officers whose integrity is questionable.

In his report on public administration, A.D. Gorwala discussed the problem of integrity in Chapter IV. Some important extracts

<sup>1</sup> P. S. Muhar, *Indian Administration : Organisation and Working*, I. P. S. A., Patiala, 1966, 94-97.

from the report are as follows :

During the past few years there have been various instances in which grave allegations of a specific nature have been made by responsible parties against persons occupying the position of Ministers of Governments. Such allegations have on occasion been the subject of debate in the Legislatures. The Ministry as a whole and the party which has put it in power having thrown their weight behind the Minister complained against, the debates have either been inconclusive or have ended in a vote in his favour. Thereafter, the matter has generally been ended. Enquiries into the allegations have sometimes been made by senior all-India leaders of the principal political party ; occasionally their reports have been made public, but often they have remained secret. Some of the reports have exculpated those complained against and some have, in effect, condemned them. In any case, no action has been taken. It is not surprising that when grave allegations by responsible parties are made against people holding positions of high authority and they continue to remain in power without being cleared of the charges the public generally feel that anybody really influential can get away with anything.

Corruption, it is said, is often difficult to prove. All the more reason why there should not be the least hesitation in investigating every matter in which there is ground for complaint. Punishment, too, for corruption should be exemplary, the least being dismissal from service. There is in this matter of corruption, one clear criterion which can be of great assistance in assessing the possibility or otherwise of its existence. Reputation can be taken as almost conclusive.

There is very little doubt that corrupt public servants often escape detection because the machinery for detection is not sufficiently able and wide awake. It needs to be strengthened, if necessary, by importing from abroad officers who have made a special study of this subject. Such machinery should for the Centre be directly under the DIB, and the Central Government should not hesitate to have investigated by it special cases of corruption in the States when important public servants are concerned and when it is felt that local influences are preventing action being taken against them.

When specific allegations of corruption were made in the public press against individual public servants by name in the past, the officer was generally expected to clear his name by taking the matter to the courts. Government would sanction expenses on the understanding that if the officer lost his case, he would have to reimburse the Government, and if he got damages, the cost would be the first charge on damages. The filing of several such prosecutions had a very healthy effect on the press and prevented their spreading unfounded sensational tales. No such prosecutions would seem to

have been filed in recent years although there has been no lack of very specific allegations against even senior people in the Government of India.

Another useful device is that of the prompt contradiction. This necessitates examination of particularly critical newspapers immediately on issue, listing all the allegations made, prompt inquiry into them and immediate contradiction by letter to the editor of such as are false or misconceived. This can, of course, be doubly effective if, where Government is wrong, it frankly admits its error and says it is taking steps to remedy it. The idea that some newspapers are mere rags, that it does not matter what they say and that one need pay no attention to them cannot be accepted, for though Government may pay no attention to them, large numbers of the people do and what the people think must be a matter of great concern to a democratic government.

It is often stated that the procedure laid down for departmental enquiries prevents quick disposal and that consequently punishment, when imposed, comes so long after the offence that it fails to strike terror and loses all deterrent effect. There is no real reason why this should be so. A departmental enquiry ought to be completed with reasonable diligence within three months. In cases of special importance when the record is likely to be very voluminous it may be worthwhile to appoint an officer on special duty to hold such an inquiry.

In the interests of the country obviously public virtue must prevail, but in order to avoid the difficulty inherent in not following the accepted standard of private virtue, it would be desirable to reduce as far as possible the scope of the patronage that can be exercised by any person in authority. Patronage should in fact, be eliminated or at least narrowed down to the unavoidable minimum, by the fullest use of the Public Service Commission Selection Boards and Selection Committees. The latter two if they not exist should be created for filling any vacancies that may arise in grades and categories which do not come within the purview of the Public Service Commission, and the Public Service Commission should supervise their work both at the stage of initial recruitment and at subsequent important stages of promotion. Even for temporary appointments, candidates should be chosen by Selection Boards or Committees.

Ministers should be the first to set an example in this matter. We are told that, in the past, on occasions their visits to the headquarters of a district have thrown a considerable additional burden on the Taluqdar, as they sometimes travel without making their own arrangements and rely on the Taluqdar to provide all supplies. The practice of touring without payment needs firm checking at all levels, and we trust Government will make offenders realise that it

will not do to disobey its orders on this point. Honest service can hardly be expected from subordinates if they are called upon to spend large sums for the entertainment of their superiors on tour. In such cases, they have no recourse but to fall back on assistance from the rich or levy contribution on the poor. The rich man will not pay unless he gets some return, and the poor, except under duress.

### III. SANTHANAM COMMITTEE REPORT

The Government of India appointed in 1962 the Committee on Prevention of Corruption, with K. Santhanam, M. P. as Chairman. The terms of reference of the Committee were : (1) to examine the organisation and working of the vigilance units in the Ministries and Departments of the Government of India and of the Special Department of the Government of India and of the Special Police Establishment and suggest measure for their improvement; (2) to consider and suggest steps to be taken to emphasise the responsibilities of each Department for checking corruption; (3) to examine and suggest changes in Government Servants' Conduct Rules for ensuring maintenance of absolute integrity in the public services and in laws and rules to expedite disciplinary proceedings and make them more effective; (4) to suggest measures calculated to produce a social climate both amongst public servants and in the general public in which bribery and corruption may not flourish; (5) to suggest steps for securing public support for anti-corruption measures; and (6) to consider special measures that may be necessary in corporate public undertakings to secure honesty and integrity amongst their employees. Thus, it is obvious that the terms of reference were quite comprehensive. The Committee submitted its final report on 31 March 1964.

We summarise here the findings of the Committee on social climate and preventive measures. There is a wide-spread impression that failure of integrity is not uncommon among Ministers and that some Ministers who have held office during these years have enriched themselves by illegitimately obtaining good jobs for their sons and relations through nepotism, and have reaped other advantages inconsistent with any notion of purity in public life. It is a pity that neither the Congress authorities nor the great leaders who took over the Government of India realised the importance of evolving a suitable machinery and procedure for preventing and dealing with such corruption. Some useful suggestions in this connection are :

1. (i) A code of conduct for Ministers including the provisions suggested for public servants relating to acquisition of property, acceptance of gifts and disclosure of assets and liabilities

should be drawn up. (ii) Specific allegation of corruption on the part of a Minister at the Centre or in State should be promptly investigated by an agency whose findings should command respect. (iii) In respect of allegations appearing in press or which otherwise come within notice, the Prime Minister and the Chief Minister should be free to refer the matter to this agency. (iv) The President should constitute on the advice of the Prime Minister, a 'National Panel' from which an ad hoc committee consisting of 3 persons of whom one should have held or should be holding a high judicial office should be constituted to deal with a complaint against a Minister.

2. (i) The legislators who are in the employment of private undertakings for legitimate work, should declare the fact of such employment. Such legislators should not approach Ministers or officials in connection with the work of the employers and also should not participate in the discussion or voting on demands or proposals in which the undertakings or firms are interested. (ii) A code of conduct for legislators embodying these and other principles should be framed by a special committee of Parliament and legislatures.

3. The conduct of political parties should be regulated by strict principles in relation to collection of funds for electioneering. A total ban on all donations by incorporated bodies to political parties will clear the atmosphere. All political parties should keep a proper account of their receipts and expenditure and should publish annual audited statements giving details of all individual receipts.

4. The Central and State Governments should make it a point to scrutinise carefully all complaints and allegations appearing in responsible newspapers and investigate them thoroughly. Editors and reporters should be encouraged under a pledge of secrecy to communicate to the Chief Vigilance Officers or the Central Vigilance Commission about suspected corrupt practices and all such reports should be inquired into.

5. Voluntary public organisations willing to assist Government in combating corruption should be invited to cooperate with the Government in fighting corruption.

6. The responsible heads of Panchayati Raj institutions should consider it as a part of their duty to report to Government all cases in which corrupt practices are suspected.

7. A climate should be developed in which those officials who have been found guilty of corruption feel not only that they have lost their jobs but also feel socially degraded.

#### PREVENTATIVE MEASURES

(1) Administrative delays which are the major causes of corruption should be reduced to the utmost extent possible.

(2) While it would not be possible to completely eliminate



discretion it should be possible to devise a system of administration which would reduce to the minimum the need for the exercise of personal discretion consistently with efficiency and speedy disposal of business.

(3) In the matter of granting licenses and allocation of scarce goods, members of a recognised trade organisation should screen the capacity of the applicants, their past performance and conduct and make recommendations to the licensing authority.

(4) There should be a complete ban against Government Servants accepting private commercial and industrial employment for 2 years after retirement.

#### CONDUCT RULES AND DISCIPLINARY PROCEEDINGS

(1) There should be only one set of Conduct Rules applicable to all Government Servants employed in connection with the affairs of the Union and to the members of the All-India Services.

(2) Simplified procedure should be adopted for dealing with charges of bribery, corruption and lack of integrity.

(3) The Government should have the power to compulsorily retire a government servant who has completed 25 years of qualifying service or has attained 50 years of age without giving any reason and without any liability for special compensation.

(4) Section 21 of the Indian Penal Code should be amended to clearly define the words 'public servant'. Offering of bribe or attempt to offer bribe should be made a substantive offence and not merely an abetment as at present.

(5) As a general rule, public servants found guilty of bribery, corruption or other criminal misconduct should be prosecuted in the first instance if the evidence is sufficient for that purpose. In other cases, departmental action should be taken in the first instance.

#### JUDICIARY AND UNIVERSITIES

(1) The Chief Justice of India, in consultation with the Chief Justice of the High Courts, should arrange for a thorough enquiry into the incidence of corruption in the judiciary, and evolve in consultation with the Central and State Governments, proper measures to prevent and eliminate it.

(2) The University Grants Commission and the Inter University Board should take immediate steps to institute an inquiry into the malpractices that may be prevailing in the Universities and evolve measures to fight them.

The main recommendations of the Santhanam Committee relating to the organizational set-up of the central vigilance machinery may be summarized as follows :

1. The central vigilance commission should in its functioning be independent of the government and may not be directly answer-

able to any minister. It should deal comprehensively with two of the major problems of administration, namely prevention of corruption and maintenance of integrity; and ensuring just and fair exercise of administrative powers vested in various authorities by statutory rules or by non-statutory executive orders.

The Central Vigilance Commission should consist of three directorates, one to deal with general complaints of citizens (directorates of general complaints and redress), another to deal with all vigilance matters (directorates of vigilance), and the third the central police organization which would exercise the powers now exercised by the Delhi special police establishment. The sub-offices of the Central Vigilance Commission may be established at Bombay, Calcutta, Delhi and Madras in charge of serving government servants of a sufficiently high rank and to discharge such functions and duties as may be allotted to them by the Central Vigilance Commission.

2. The vigilance organisation in the railways should be adequately strengthened. In the zonal railways, the vigilance officer should have the status of a departmental head and be given full freedom to investigate into complaints received by them.

3. There should be one chief vigilance officer in each ministry or department or public undertaking. There should be vigilance officers in all subordinate and attached offices and in important departments of the public sector undertakings. The chief vigilance officers and vigilance officers in departments and establishments having field organizations should be equipped with adequate investigating staff so that such of those complaints or cases which are not handed over to the central bureau of investigation may be investigated by them. The strength of the investigating staff should be determined in each ministry in consultation with the Central Vigilance Commission.

4. All enquiries against class I and II officers and in other important cases should be entrusted to the commissioners for departmental enquiries, for this purpose their number should be suitably increased and officers from different departments like railway, central public works department, income tax, central excise and customs, posts and telegraphs should be appointed as commissioners for departmental enquiries.

5. The chief vigilance officer should be empowered to scrutinize the correctness of the findings and conclusions arrived at in a departmental enquiry and the adequacy of punishment, and launch action for review if he is of the view that the punishment awarded is inadequate.

6. The Committee emphasised that integrity clearance must be obtained from the Vigilance Organisation in matters relating to confirmation and promotion.

#### IV. ACTION TAKEN ON SANTHANAM COMMITTEE REPORT

The Government accepted 106 out of 137 recommendations made by the Santhanam Committee on prevention of corruption and was considering 27 recommendations according to a statement presented to the Lok Sabha on 25 August 1965. The statement said that 96 recommendations accepted related to Government Servants' Conduct Rules, constitutional changes, amendment of laws, political parties, universities and other miscellaneous items. Ten more recommendations which had been accepted and implementation of which was under consideration related to Government Servants' Disciplinary Rules and amendment of various laws. The 27 recommendations under consideration related to constitutional changes, manner of dealing with political parties and reforms of judiciary. The statement further said that four recommendations of the Committee had been rejected but did not indicate what they were. The statement added that under a programme drawn up for 1965, it was proposed to take special steps to detect and check corrupt practice in selected Government departments and public sector organisations.<sup>1</sup> In pursuance of the Santhanam Committee's recommendations in regard to the accreditation of representatives of firms, the Government of India decided in 1965 that the number of representatives accredited for each firm would be restricted to the minimum. The Ministry with which a firm has its main dealings will be the Ministry for granting accreditation.

##### CONDUCT CODE FOR MINISTERS

The Union Cabinet approved the Code of Conduct for Ministers. The Code provides that the Ministers will have to declare, before assuming office, not only their own assets but also those of the members of their families. They will also submit to the Prime Minister or their Chief Minister, as the case may be, annual statements showing the assets held by them and their family members, who would include the Minister's wife and children as well as others solely dependent upon him. It is understood that under the Code, Ministers should not hold commanding shares in joint stock companies and should avoid investment in managing agency companies. While on tour, they should not normally stay with private individuals but only in Government Circuit Houses. Nor should they avail themselves of private transport facilities. Where, however, a Minister has to stay with a private person, the officers accompanying him should not enjoy the latter's hospitality. Any violation of the Code by Central Ministers or charges of corruption against them will be inquired into by the Prime Minister; and in the case of State Ministers, jointly by the

<sup>1</sup> See Indian Recorder and Digest, September 1965.

concerned Chief Minister and the Union Home Minister. The Prime Minister may, however, seek the help of any independent agency, including a commission of inquiry, to investigate the complaints.

#### ANTI-CORRUPTION LAWS (AMENDMENT) ACT, 1964

Under the Anti-Corruption Laws (Amendment) Act, 1964, passed by Parliament the Indian Penal Code was amended so as to bring within its purview certain additional categories of persons such as those performing adjudicatory functions under any law, liquidators, receivers, commissioners, and persons in the service or pay of any statutory corporation which is not engaged in any trade or industry. The Code of Criminal Procedure was also amended to enable proceedings being taken in respect of any offence of defamation by spoken words against the President, Vice-President, Ministers and other public servants in respect of their conduct in the discharge of their public duties, without taking their consent. Further power was taken by the Government to obtain an order of attachment of money or other property believed to have been obtained by the Commission of offences under section 5 of the Prevention of Corruption Act, 1947.

#### ELIMINATING GRAFT FROM D. G. S. D.

The Government accepted a majority of the recommendations of the Santhanam Committee for eliminating corruption in the Directorate-General of Supplies and Disposals. The Santhanam Committee found that the various procedures laid down for inviting tenders for contracts, their scrutiny and final disposal were open to misuse by the unscrupulous, leading to corruption at different levels. The committee's recommendation that tenders should be opened in the presence of representatives of the tendering firms and quotations should be tabulated on the spot was accepted by the Government. But the Government did not accept the recommendation that outsiders, like representatives of chambers of commerce and trade journals, should be associated with the opening of tenders. This, in the Government's view, was not only undesirable but bristled with practical difficulties also.

The following comments and observations by Shri A. G. Noorani on the action taken by the Government in pursuance of the recommendations of the Santhanam Committee recommendations are interesting and thought-provoking: One has never heard of the Conservative or the Labour Party investigating charges of corruption against a minister and flinging its own certificate in the face of a clamorous public. If corruption is to be rooted out, there must be an efficient machinery which ensures that inquiry is instituted promptly and independently of Government's wishes that it is conducted impartially, and its findings are effectively enforced. This applies to

both officials and ministers. With regard to officials, the scheme of the Central Vigilance Commission announced by the Government of India on 16 December 1963, does represent some advance, but it really does not go far enough 'In the constitutional and legal sense. Its (the Commission's) functions would be advisory.'

The powers given to the Vigilance Commission in any case fall short of what the Santhanam Committee recommended, and the only safeguard is the Commission's annual report to Parliament drawing particular attention to any recommendation made by it which had not been accepted or acted upon by Government. This would include also its recommendation that Government sanction be given under Section 6 of the Prevention of Corruption Act, 1947, which is a condition precedent to the prosecution of a public servant. This still left the Government with a large measure of discretion that was necessary.

With regard to ministerial corruption, the position hitherto has been most unsatisfactory. Its recommendations are two-fold. *First*, a code of conduct for ministers. This recommendation has been accepted by the Union Government. Its most glaring inadequacy was the omission to forbid ministers from collecting funds for a political party, and this despite the experience of the Malviya affair. However, the second recommendation, a clear counterpart of the first was accepted by the Government. That recommendation was: 'If a formal allegation is made by any 10 members of Parliament or a legislature in writing addressed to the Prime Minister or Chief Minister through the Speakers and Chairmen, the Prime Minister or Chief Minister should consider himself obliged, by convention, to refer the allegation for immediate investigation by a committee.' The committee to be appointed out of a national panel constituted by the President on the Prime Minister's advice was to consist of three persons, one of whom should have held or should be holding a high judicial office. The Committee's function was to advise if there was a *prima facie*, and if so, to recommend either a criminal prosecution or a commission of inquiry; the Minister resigning in the interim.

The Santhanam Committee suggested that Section 21 of Indian Penal Code defining 'public servant' be amended to make clear that all Ministers, Ministers of States, Deputy Ministers, Parliamentary Secretaries and members of local authorities come under the definition of the Penal Code. With this amendment to remove all doubt, the next step was to set up an office which would not only provide an effective machinery to bring the corruption to book, but would go a long way to assuring equality before the law. As Shri Shriman Narayan remarked: 'Ministers should also be prepared to under the same process of purification by facing impartial tribunals whenever

necessary.' Also the law should be amended to debar a Minister found guilty whether by a court or a commission from holding any elective office.<sup>1</sup>

To the above we may add the following : *First*, efforts should be made to build up and organise public opinion in support of probity and rectitude. *Second*, integrity at the political level should be ensured through party discipline. *Third*, measures should be devised to obtain full co-operation of voluntary organisations and individuals in the anti-corruption drive of the Government. *Fourth*, there should be an upward revision in the pay scales of civil servants particularly at the lower levels and at the same time the Government should take all possible and effective steps to check rise in prices, especially of essential consumer goods.

It is particularly to be noted here that administrative corruption cannot be eradicated without the elimination of political corruption from which it derives much support and strength. While administrative corruption could be eliminated effectively, it is impossible to tackle political corruption, because corrupt activities of political leaders also involve the public. Political corruption has chances to grow more with politicians belonging to the party in power than others. The electorate can take notice of corruption either in individuals or in parties only at the next election, provided it is intelligent, vigilant and itself uncorrupt.

A possible solution to political corruption is to ask for the periodical declaration of private assets of Ministers and elected legislators of all parties. A private Bill in Parliament for the disclosure of Ministers' assets did not succeed as it went too far in asking for the assets being made public and placed on the table of the House. The move for disclosure of assets will always be resented even as a normal ethical code, as it is considered affecting the self-respect and right of privacy of elected representatives of the people. Paul H. Douglas in his 'Ethics in Government' advocates public disclosure for no better reason than that the whole light of facts will dispel false doubts and suspicions. He says : 'Public office is an honour and in return for that honour men should be willing to make some sacrifice. At the present time in order to restore man's faith in Government and public life there is need for men of fine character not only to enter public life but also to submit themselves to some scrutiny in order to resume public life.' Legislation to make such disclosures to the supreme authority, the President or the Governor as the case may be, should be unexceptionable.<sup>2</sup>

To the above we may add that the ruling party can render

<sup>1</sup> Shriman Narayan, 'Graft Inquiry must be Prompt and Impartial', *Sunday Standard*, 15 November 1964.

<sup>2</sup> N. M. Mudaliar, *Indian Administration : Today and Tomorrow*, 55.

much help in eradicating corruption. This it can do in these ways : (i) by requiring its ministers and legislators to declare their assets every year and make them subject to public scrutiny ; (ii) by taking severe disciplinary action against corrupt ministers and legislators and refusing them tickets at the next election ; (iii) by enacting legislative measures to ban contributions to political leaders and parties and requiring the parties to publish their accounts every year; and (iv) by setting an example in simple and honest living.

In a circular sent by the General Secretary of the Janata Party on 20 July 1977 Chief Ministers in States where the Janata is in power, were asked by the party headquarters to intimate the steps they had taken or proposed to take to stamp out corruption in public life and administration. The General Secretary in his circular informed the state leaders that a Bill for appointment of Lokpal would be introduced in the current session. He urged the Chief Ministers to introduce similar legislation establishing Lokayukta in the states without delay. He cited the relevant portion in the manifesto which reads : 'Unless those who hold office at highest level, including ministers, legislators and bureaucrats set an example in probity and honesty, it will be impossible to restore integrity in public life.'

## V. VIGILANCE SET-UP OF THE GOVERNMENT OF INDIA

It consists of two well-known organisations—the Central Bureau of Investigation (CBI) and the Central Vigilance Commission (CVC). Since they have been the chief instrumentalities in checking corruption, it would be useful to know a little about their functions and working.

### THE CENTRAL BUREAU OF INVESTIGATION (C. B. I.)

An important work of the CBI is to prepare agreed lists of officers of doubtful integrity. Total number of officers under observation during 1967 was 576 and during 1968 it was 547. Action taken against such officers in 1967 was : prosecutions taken up 11, and departmental action 1960. Some innocent officers have also been brought under a cloud inadvertently or mischievously. With regard to effectively checking corruption, the Estimates Committee observed : 'CBI have not been able to do much in discharging their responsibility for keeping a watch on undesirable contact men or unscrupulous contractors, suppliers, firms and clearing agents who are suspected of indulging in corrupt practices because of the limited staff at their disposal. The Committee attach great importance to this part of their activity and recommend that CBI should have an adequate machinery, trained manpower and resources for this purpose.'

The Estimates Committee felt 'unhappy to note the inordinately long time being taken by Central Bureau of Investigation both in investigation at the Branch level and in the processing of the Final Report of the Branch at the Head Office. At the end of 1967, 258 preliminary enquiries and regular cases were pending. Thus, delay upto one year can be caused merely in legal scrutiny of cases. The only solution is to have SP's fully trained in Law. One of the causes of delay in finalization of the CBI cases is the long time taken by the CVC in giving the advice because no one person is responsible in the CVC. Cases rest on the tables of Assistants, Section Officers, Deputy Secretary, or Secretary, and the Central Vigilance Commissioner may or may not know about these.'

The following recommendation of the Estimates Committee seems to be very pertinent: 'The Committee are deeply concerned to note the large number of Central Bureau of Investigation cases pending with the Ministries/Departments for disciplinary action; quite a substantial portion of these have been pending for a long time. Apart from the fact that delays in disciplinary proceedings whittle down the deterrent effect of punishment, the more prolonged the proceedings the greater is the difficulty experienced by the witnesses and greater still is the hardship to the public servant involved. The Committee would suggest that reasonable time limits for the disposal of a disciplinary case at each stage in the Ministries should be fixed which should normally be adhered to.'

Regarding delays in Courts, the Estimates Committee observes: 'The Committee are perturbed at the mounting arrears of CBI cases pending trial/disposal in Courts year after year. The analytical study of some old pending cases reveals that CBI is not free from blame in this matter. The delay in production of documents under Section 173 Cr. P. C., shortage of prosecuting staff and delay in the service of summons are matters which have to be attended to by the CBI.'

#### THE CENTRAL VIGILANCE COMMISSION (C. V. C.)

The objectives of the CVC set by the Santhanam Committee were: (1) The CVC should be independent of Government and not answerable to any Minister, (2) It should deal comprehensively with prevention of corruption and maintenance of integrity, (3) It should ensure just and fair exercise of administrative powers, (4) It should assume centralized powers and responsibilities in disciplinary matters (excepting the jurisdiction of Delhi Special Police Establishment). But the Government did not favour complete centralization of powers and responsibilities which will undermine the initiative and sense of responsibility of Ministries and Departments in such a big country where Central Government staff is spread all over. The main objective of CVC, therefore, is to ensure that complaints of



corruption or lack of integrity on the part of Government servants are given prompt attention. It has been given powers of investigation and enquiry.

Regarding the procedure of work in the Commission, the following observations of the Estimates Committee (1968-69) of the Fourth Lok Sabha are relevant : 'Considering the fact that the Central Vigilance Commissioner has to study each and every case personally and take decision himself, the Committee felt convinced that it is humanly impossible for one person to handle the large volume and variety of work transacted by the Commission... The Committee, therefore, recommend that if the Commission is to discharge the onerous duties entrusted to it, it should be enlarged and at least one more member added to it. However, 'The Committee regard the procedure of recording the reasons for taking a particular decision as highly salutary and based on sound principles of public policy in as much as it guards against the decision of any person being arbitrary or whimsical. In this context, they are glad to note the assurance given by the Central Vigilance Commissioner that his advice will be accompanied by reasons so as to enable the disciplinary authority concerned to reach a decision.'

Details furnished to the Estimates Committee indicate that considerable delays have been taking place in the Commission at different stages in the disposal of cases. The number of 6-month old cases increased from 9 at the end of 1964-65 to 94 at the end of 1967-68 and those more than one year old increased from 7, at the end of 1964-65, to 21 at the end of 1967-68. The Committee observed in its report that during 1965-68 average number of cases referred to Commissioners for Departmental Enquiries during a year was 171 and their disposal during a year was 98. This resulted in an expanding backlog and at the end of 1967-68, 270 cases were pending. The average time taken in completing an oral enquiry in a case increased from 270 days during 1966-67 to 399 during 1967-68.

The following recommendations of the Estimates Committee regarding pending cases are very important : 'The Committee are concerned to note the large number of enquiry cases pending with the Commissioners for Departmental Enquiry which are mounting every year. At the present rate of disposal, which is stated to be three per month per Commissioner, the 5 Commissioners at present attached to the Commission will take as long as 1½ years to complete the enquiries in 270 cases pending with them as on 31 March 1968. The Committee recommend that the Commission as well as the Ministry of Home Affairs should make a thorough investigation of the causes which have led to the accumulation of enquiry cases with the Commissioners, stream-line and simplify the enquiry procedures wherever possible and, if the workload justifies, take prompt action

to increase the number of Commissioners.'

The following observations by Kailash Prakash, made in his article 'The Vigilance Set-Up of the Government of India', would strike anyone who examines the vigilance set-up as it is functioning to day in the light of the above mentioned facts :

(1) There is far too much unnecessary secrecy and halo around the working of the vigilance set-up and it has created a strong sense of fear of action and the distinction between the bona fide errors and the mala fide ones, has tended to vanish. In this context, the analysis of the Central Vigilance Commissioner, that it is delay which is at the root of this total damage to the administrative structure of the country is correct. However, very little seems to have been suggested which should foster a feeling of confidence, trust, initiative, responsibility and efficiency, which are the essential pre-requisites and needs of our administration, so long as we value democracy, accept the rule of law and the developmental needs as enshrined in the Directive Principles of the Constitution.

(2) The Heads of Departments tend to feel that the setting up of the vigilance hierarchies in the Departments by the CBI and CVC has eroded and diffused the role and responsibility of the Heads of Departments in matters relating to integrity and efficiency of administration and the officers holding charge thereof. This has resulted in spreading an atmosphere of lack of trust in anyone and parallel centres of power have emerged in the CBI and CVC administrative authorities.

(3) It is generally felt that the administration was little more efficient in the 1950s and the elements of delay were less because the responsibility was felt and exercised by the Heads of Departments and others in-charge of the staff under them. Cases of excess or of errors of judgment and discretion were occasionally taken up in courts of law and under the Government Service Conduct Rules. It is the colossal expansion of the vigilance network after 1964 which has brought us in the Indian administration to a sad state of affairs in the last few years. One is pained to find senior officers quite helpless when it comes to any innocent officer being persecuted by CBI or the vigilance set-up due to the process and procedures even when they feel satisfied about his integrity in the matter. The best evidence of it can be had in the statistics of CBI and CVC. If the top levels had examined the case with care and speed at the early stages and acted with judgment and authority, they could have saved the officer much suffering. Today, no one reads the cases to take a view and everybody passes on the buck. Fear has overtaken all levels and far too many agencies are meddling in vigilance cases.

(4) The positive role of the CBI is as follows : (i) It alone

can take up investigations against the higher levels and in complex cases. (ii) It is resourceful and can get material from various sources which may not be available to the normal departmental machinery. (iii) Important cases have been taken up by the CBI which has had a deterrent effect on other persons who may have engaged themselves in corruption. Many cases mentioned in the Annual Report of CBI bear adequate evidence of its positive role. (iv) In the early years, the CBI had taken up too many cases for prosecution and many of them proved to be weak.

(5) The Government of India must give serious consideration to the performance of the CBI and the CVC in as much as major penalties were imposed barely in one per cent of the cases undertaken by the CBI and this percentage for the CVC comes barely to two per cent. This leads us to the question as to what is the fate of the 98 per cent of the officers who undergo the vigilance torture and who are not the same men again. Breaking the morale of 98 per cent of the officers who come under the vigilance clouds will lower the performance in our public sector and Government.

(6) The administration, vigilance and efficiency cell should form one wing though in some of the departments it may be necessary to have a few specialized vigilance officers :

(i) In all cases, there must be an independent investigation conducted by an officer at the appropriate level which could be one level above the level of the accused. This officer should do the preliminary investigations within 2-3 months. The report from such an officer should carry adequate weight and as an incentive he should be paid honorarium or fee of Rs. 500 to Rs. 1,000. This alone will enable the CVC and the department to take a balanced view even in those cases where the CBI has also given a report for departmental action.

(ii) A panel of officers who can be entrusted with vigilance cases is absolutely essential, because there can be only a few officers proficient in handling vigilance cases and it is the delay at the stage of preliminary inquiry in major and even minor penalty cases and the oral enquiry that has to be cut down.

7. (i) The investigating officer of an appropriate level should do the complete departmental investigation in every case (even in CBI cases) and submit his report within three months either acquitting the officer or with the draft charge-sheet.

(ii) The disciplinary authority should take a view within one month to decide whether a minor or major penalty should be inflicted or the case be dropped. The case at this stage should come to the CVC for advice or discussion along with the draft charge-sheet. The CVC should give its advice within one month. Within one month the draft charge-sheet must be issued along with all relevant documents on which the case is based. There should

be no effort to conceal relevant documents that might favour the defendant. The officer must also be asked to call on the vigilance officer within a week and to consult such other documents of the case as he needs. Any reference to other irrelevant documents can then be turned down and this process should be over within 10 days.

(iii) A provision may be incorporated in the present procedure that once the charge-sheet, accompanied by the supporting documents, is issued, a reply should be given within 15-30 days at the most.

(iv) The reply should be considered by the competent authority within a month and if it is felt that a major penalty is warranted then in such cases the Commissioner for Departmental Enquiries (CDE) can be appointed straight-away. The same obligation of 15-30 days must be enforced on the disciplinary authority and reply should be considered and a view taken by him. In those cases which warrant minor penalties, the disciplinary authority should pass final orders. In those cases where major penalties have been advised by the CVC, the CDE must be asked to commence his enquiry within 2 weeks. If the CDE of the CVC is busy, a suitable departmental officer should conduct the enquiry. The report of the CDE should be available within 3 months.

(v) The CDE must be asked to study the case and all relevant materials, and if he feels it is not a major penalty case, he should send it to the CVC with his reasons. This will check the tendency to start all cases as major penalty cases and end them with minor penalties and warnings, which should have been done earlier. This procedure is expected to ensure that many simple vigilance cases would get disposed of within three months. Again, minor penalty cases should be disposed of in another three months and the major penalty cases should also be disposed of within a year.

(8) (i) The promotion and confirmation of individuals should not be held up till the decision in vigilance cases is taken. These should be decided only on the basis of the overall record. Sensitive higher posts are not more sensitive than those of the middle, or near middle levels. Let not the judgment of the ability and integrity of the officer as recorded in the Confidential Reports be outweighed by a vigilance case and many years of loyal service and good record ignored.

(ii) The punishment memo must be placed at the appropriate place in the Character Roll with reference to the period covered by the charge-sheet and not the date of issue of the orders.

(iii) The list of penalties needs to be revised as follows : *Major penalties* : (a) dismissal, (b) removal, and (c) compulsory retirement or reversion; *Minor penalties* : (a) recovery of any loss, (b) stoppage of increments, and (c) censure. Any caution or warning should have no penal consequences and should rarely be given in cases where

a charge-sheet is issued, because this is meant to be given for guidance only.

(iv) In grave cases where dismissal is likely, it is better to suspend an officer for 3 to 6 months and expedite his case. It will be very difficult for anybody to function in an atmosphere of uncertainty where his bona fides have been brought to doubt. No one should be kept under suspension for more than six months.

(v) It has also to be seriously considered as to why we see that now only vigilance cases are being pursued in any organization, whereas in a departmental organization most of the cases pursued ought to deal with inefficiency, delay or lack of performance. If the administration has to be positive and efficient, this aspect must receive the attention it deserves.

The most important need in the interest of efficiency and progress is to fix a time schedule for a case as suggested in this article and also to demarcate clear fields of responsibility between the CBI, the CVC, and heads of departments; and officers of appropriate level should apply their minds to the cases instead of having too many persons' noting on facts, etc., and making it impossible for the competent authority to look into the case himself. The three vigilance agencies should really complement one another as already discussed so that there is a concern for urgency and enquiries are conducted expeditiously and decisions taken quickly.<sup>1</sup>

<sup>1</sup> See *I. J. P. A.*, Oct-Dec, 1972, 542-50.

## CHAPTER XXV

# ADMINISTRATIVE REFORMS IN THE STATES

### I. ADMINISTRATIVE REFORMS COMMISSION ON STATE ADMINISTRATION

The process of administrative reforms in the States had started, as in the case of the Central Government, after independence. But only a few States had moved in this direction prior to the publication of the ARC's report and the steps taken by them were not significant enough to warrant their description. The fact is that both the Central and State administrations had to subject themselves to the compulsions of change in response to the new challenges of development. In the area of reforms, the Centre and States have learnt from each other and benefited from a sharing of experiences and adaptive practices. It is, interesting to note that the term 'administrative reforms' has entered the Centre via the States.

Since independence, there have been attempts by the Governments, both at the Centre and in the States, to set up committees or commissions, composed either of an individual or a group of members, to look into the specific aspects of deficiencies in the administrative structure or behaviour. They represented generally *ad hoc* responses to *ad hoc* needs. But the most comprehensive commission to take a wide ranging view of the 'systemic' as against the 'sectoral' inadequacies of public administration in the country has been the Administrative Reforms Commission (ARC). The ARC provided the most significant opportunity for making a total enquiry into the Indian system of public administration, embracing within its sweep even the State administration. We shall be concerned here only with two aspects of the Commission's enquiry, namely, 'Administration at the State Level' and 'District Administration' which were amongst the ten agenda themes earmarked for the Commission.

In the schedule enclosed to the resolution, setting up the Administrative Reforms Commission, the items that were covered under administration at the State level were : (a) examination of the organisation and procedures of State Governments with special reference to problems similar to those enumerated above; and (b) The need to strengthen administration in the States at all levels. As these two sectors were eminently inter-related, it was considered by the

Commission to be convenient to integrate them together into one report—the Report on the State Administration.

In the context of the States, it was considered important that each State secretariat should have a strong O & M unit which would carry continuously detailed studies for suggesting improvements in the administrative structure and methods of work. Another important aspect which was considered very significant was the realisation of an urgent need for the creation of institutional arrangements for promoting rational thinking for the solution of current and prospective administrative problems and the role which autonomous professional organisations and academic institutions could play in this regard. As organisational problems grow more and more complex in dimension, O & M needs were to be increasingly enriched not only by theoretical insights but also by advanced techniques of data analysis and evaluation. In the ultimate analysis, problems faced by the administration in the States, and particularly at the cutting edge level, are not merely procedural but have also significant sociological and behavioural overtones.

In the field of personnel administration and training in the States, the ARC recommended as follows : (i) The proliferation of personnel under the State Governments must be checked. Organisation and Methods Division and Staff Inspection Units where they exist must be activated and wherever they do not exist, they must be set up with a view to finding out better ways of organisation of work and more efficient methods of doing it and to laying down rational standards for sanctioning of staff in future. (ii) Staff which has been found to be in excess should not be kept on in their old duties but should be brought on to a separate pool which should be maintained on a supernumerary basis. Recruitment to surplus categories should be stopped, and surplus personnel should be redeployed where vacancies exist or come up. Many could also be trained in new skills such as stenography, etc., and employed accordingly.

A Personnel Department should also be set up in the States under the Chief Minister. The functions of this Department would be : (a) Manpower planning, training and career development for all State personnel; (b) Liaison with the State Public Service Commission, Central Government, professional institutions, etc.; (c) Talent hunting, development of personnel for higher posts and appointments to the level of Under and Deputy Secretary and Secretary in the State secretariats and equivalent posts in the field organisations; (d) Research in personnel administration.

An Establishment Board should be established in each State to select officers for the level of Under and Deputy Secretary and Secretary in the secretariat and officers of equivalent status in the field organisations. Wherever the number of personnel engaged on a particular function is sufficient to constitute a viable cadre, a

service should be set up for that function. The field to which all the services should contribute on the basis of equal opportunity should be enlarged and no privileged position should be assigned to any particular service in respect of posts which can be adequately filled by all officers after training and/or experience, if necessary. For the posts of heads of departments, men with initiative and drive as well as experience and knowledge of the subject-matter should be appointed. The endeavour should be to pick out suitable personnel from the corresponding State service to man these posts. If no suitable men are available from the corresponding State functional services, there should be no objection to consider an IAS officer with the necessary background.

There should be set up in each State, where it does not already exist, a separate training institution for organising a common foundational course for fresh recruits to Class I or equivalent State Civil Services, institutional training for the probationers of the State Administrative Service and other generalist services, training in management for different levels of officers, and refresher courses. Each major executive department should have a training cell to organise suitable training programmes for its personnel of different categories. Special attention is to be paid to organising suitable programmes of training for Class III and Class IV personnel, designed to improve their job skills as well as attitudes towards the public. Facilities available at the university departments of public administration and other professional institutions may be availed of for organising some of the training courses.

#### DISTRICT ADMINISTRATION

It may be pertinent here to refer to what the ARC had to say on toning up district administration. It said : The District Administration should be divided into two sectors—one concerned with 'regulatory' functions and the other with 'developmental' functions. The District Collector should be the head of the former and the panchayati raj administration should have the responsibility for the latter. The District Collector and the President, Zila Parishad, should meet at periodical intervals to resolve matters calling for co-ordination between the regulatory and developmental administration. This procedure should be given official recognition in the legislation dealing with panchayati raj.

The Collector and the District Magistrate as the head of the regulatory administration in the district should exercise general supervisory control over the police organisation in the district. Except in an emergency, he should not interfere with the internal working of the police administration. The Collector and his officers should spend a prescribed minimum number of days on tour with night halts in camp. The tour should be utilised, among other



things, for the redress of public grievances on the spot wherever possible. There should be only two administrative units whose heads are invested with powers of decision-making in the district administration—the one in the tehsil/taluka or a group of tehsils/talukas or a sub-division (in the States where there are no tehsils/talukas) and the other at the headquarters of the district. The intermediary levels, where they exist, may be abolished. Powers should be delegated to the maximum extent to the officer in charge of the sub-district administrative unit.<sup>1</sup>

Coming again to the State administration, the ARC felt that in comparison with the Ministries that were working at the time of achievement of Independence there had been a gradual deterioration in composition and calibre of the Ministries that came into existence there-after. Most States were burdened with over-sized Ministries and some were suffering from the malady of instability. The Commission recommended that the number of Ministers of all categories should be kept within certain limits. In big States, there may be 20 to 25 members in the Council of Ministers; in the middle-sized States, the number may be between 14 and 18 and in small States it may range between 8 and 12. The distribution of subjects should be rational, based on considerations of coordination and efficiency. Once a basic scheme of grouping of subjects is introduced, it should not be changed just to provide for an increase in the number of Ministers. However, every department must be represented in the Cabinet through a Cabinet Minister.

Some of the other recommendations concerning : (a) Machinery of Government at the Apex, (b) State Secretariat, (c) Executive Departments, (d) Administration at Supra-District Level, (e) Redress of Public Grievances, (f) Personnel Administration, (g) Public Service Commissions, (h) Training and Administrative Reforms, that emerged as a result of the study by the Commission of these issues were :

(1) During President's Rule in a State it should be left to the State Governor to decide, in consultation with his Advisers, what matters are important enough to be referred to the Government of India. The Governor and his Advisers should be allowed to function with efficiency and speed without interference from the Centre in the day-to-day administration. The Consultative Committee set up to advise on legislation for a State under President's Rule should invariably include all Members of Parliament from the State.

(2) Ministers should not intervene in the day-to-day administration except in cases of grave injustice, serious default or maladministration on the part of civil servants. Where a citizen's request for complaint calls for revision of a rule, procedure or

<sup>1</sup> See Bata K. Dey, 'Administrative Reforms in the States', *I. J. P. A.*, July-September 1976, 563-75.

policy, it should be met by effecting such revision, and not by relaxing the rules to accommodate an individual case. The official relationship of the Secretary to the Minister should be one of loyalty and that of the Minister to the Secretary one of confidence. All major decisions with reasons therefor should be briefly reduced to writing, particularly where the policy of Government is not clear or where some important departure from the policy is involved or where the Minister differs from the secretary on an important issue.

(3) Ministers should increasingly participate in suitable discussion groups and conferences which may be organised by University Departments of Public Administration, Political Science, Economics, etc. Seminars on important economic and administrative problems should be organised by professional institutes and Ministers may be specially invited to address such seminars.

(4) Steps should be taken by the Union Government and the State Governments to reduce expenditure on Governors and Raj Bhavans and in conformity with the objectives of a democratic socialist society. The number of the State departments should, in general, not exceed 13. In departments dealing with specific subjects, there should be set up two 'staff' cells, namely (i) a combined cell on planning and policy, and (ii) a finance cell. There should be set up in each administrative department a Policy Advisory Committee with the Secretary of the department as its Chairman and the heads of all major executive departments as its members.

(5) A working group should be set up in each State, which does not already have such a body, to formulate a scheme of substantial delegations to executive authorities. Each major executive department, engaged in developmental activities, should have a special cell on 'programme, planning and review'. This cell should also set up a suitable and adequate progress reporting system.

(6) Action should be taken to vest in the Lokpal, when he is appointed, the jurisdiction to deal with complaints against actions of Ministers in the States. Lokayuktas should be appointed in the States to deal with complaints against State Government officials including Secretaries. Complaints against District Officers, namely, the Collector and the various officers attached to the Panchayati Raj institutions, should be looked into by them.

(7) For Secretaries' posts, technical and functional officers of the State Services should not be precluded. Officers posted as Collectors for the first time should ordinarily have at least 8 years' service to their credit. Where a post carries regulatory responsibilities like Police and Taxation, periodic transfers should be the rule. Officers engaged in development activities and management of plan programmes should not, as a rule, be transferred except where a promotion is involved or qualified personnel are needed for new

programmes in different locations.

(8) University departments and professional institutes engaged in the teaching and/or study of public administration located in the State should be given adequate financial support to undertake studies on, among others, administrative reforms and improvements in areas such as rural and urban administration; semi-government organisation; state enterprises; relations with the general public; private trade and industry; inter-relations between the political and the administrative processes and application of new methods and techniques.

## II. IMPLEMENTATION OF A. R. C. RECOMMENDATIONS

Unfortunately, the recommendations made by the ARC in its report on State Administration were left to the State Governments for necessary action and implementation, on the premise that they basically pertained to the State administration with which the Central Government was not directly concerned. However, in the beginning of 1975, two experts in public administration, namely, L. P. Singh, and L. K. Jha prepared a note on 'Improving Efficiency in Administration' at the instance of the Prime Minister and submitted it to her. The main purpose behind this exercise was not to recommend radical changes in the system but to identify certain crucial areas where action could be taken to improve the performance of the administration in a relatively short time. This note was circulated by the Prime Minister amongst the members of the Council of Ministers at the Centre and to all the Chief Ministers and Governors/Lt. Governors of the State Governments and Union Territories.

This note was significant in its forthright diagnosis of the ills of administration and it maintained that despite efforts from time to time, administrative efficiency was today at a low ebb. No single factor contributes more to the hardships and frustrations of the people as inefficiency and delay in administration. This malady is attributable to two sets of factors : (a) structural and procedural, and (b) deficiencies of the human elements. The note suggested that if improvement was to be brought about, both these sets of factors had to be tackled simultaneously and with determination. The note also added that no amount of reorientation of policy and working procedures would improve efficiency unless the general atmosphere and environment in which the officials function were congenial and conducive to discipline and work.

Though the suggestions made by the experts were made in relation to the Central Government, they also applied *mutatis mutandis* to the States, whose involvement in the programme of administrative improvement was absolutely essential. Under our

constitutional and administrative structure, the impact of administration on the public depends much more on what happens at the State level and even more in the districts than what goes on in New Delhi. The district continues to be the most important unit of public administration and the district officer occupies a place of pride amongst officials in the district. Whenever there is any kind of crisis or emergency, it is the district officers who have to provide the necessary leadership in dealing with the situation. Even in the course of ordinary functioning, the demand on the administrative machinery, both at the headquarters level and at the field level, is becoming more and more exacting particularly from the point of view of implementation of the development plans. District administration is important not only from the State point of view but it is equally important from the Central, *i.e.*, the country's point of view.

#### CONFERENCE OF CHIEF SECRETARIES

A very significant development, which has accelerated administrative improvement movement in the States, took place in May 1976, when a conference of Chief Secretaries was held in New Delhi. It devoted its deliberations exclusively to the problems of administrative improvement and personnel management. Pursuant to the recommendations of the Chief Secretaries Conference, follow up action has been taken by the Governments of almost all the States and Union Territories in respect of most of the recommendations. A very brief outline of the steps taken by the various Governments under the different heads is as follows :

*Setting up of Departments of Personnel and Administrative Reforms.* Several State Governments have already taken steps in this direction. Such a separate department already existed in Bihar, Madhya Pradesh, Punjab, Maharashtra and Rajasthan. Uttar Pradesh has a Department of Personnel as well as a Department of Administrative Reforms. Several other Governments have also set up a separate department or wing.

*Redress of Citizens' Grievances.* Almost all the State Governments have created machinery for the redress of citizens' grievances. Bihar, Punjab, Tamilnadu, etc. have issued orders that every departmental officer in the district and at lower levels should set apart one particular day every week for listening to and redressing the grievances of the public. Many other Governments have also issued similar orders. District grievances committees have also been set up in many States. In Tamilnadu the practice of joint touring by the district heads of various departments in rural areas to make the officers easily accessible to the public is in operation.

The Government of Madhya Pradesh enacted in 1975 a law known as the Madhya Pradesh Lokayukta Avam Upa-Lokayukta Adhiniyam. The Act provides for the appointment of a person as the

Lokayukta and one or more persons as the Upa-Lokayuktas. These high officers will be appointed by the Governor, in the case of the Lokayukta, the Governor will consult the Chief Justice of the High Court and the Leader of the opposition in the Legislative Assembly. The Upa-Lokayuktas will be appointed in consultation with the Lokayukta. The tenure of these officers has been fixed at 5 years.

In the matter of jurisdiction of these officers, the Act has divided all public servants into two categories, high and not so high. While the conduct of the former will be investigated by the Lokayukta, the Upa-Lokayukta will look into the allegations against the second category of public officials. The law, however, excludes from the purview of these officers cases involving the Chief Minister and the Members of Parliament from Madhya Pradesh as well as the Members of the State Legislative Assembly.

*Delegation of Administrative and Financial Powers.* The Government of Assam, Orissa, Tamilnadu, Punjab, etc., have delegated administrative and financial powers to the various departments. Many other Governments have either set up or are setting up task forces to suggest delegation of administrative and financial powers to the secretariat departments, heads of the executive departments and regional/field organizations.

*Reforms at the 'Cutting Edge Level' of Administration.* The Government of many States (e. g., Andhra Pradesh, Karnataka, Rajasthan) have issued orders to carry out a drive at the cutting edge level so that the quality of the service received by the members of the public at the points where they come into contact with the Government departments can be improved. The Governments of Bihar and Gujarat have appointed task forces for this purpose and Himachal Pradesh has entrusted this work to the administrative reforms organization. The Government of West Bengal has issued detailed instructions for simplification of procedures at the cutting edge level. The Governments of Andhra Pradesh, Assam and many other States have taken action to simplify/codify and verify service rules and manuals.

*Constituting Monitoring-cum-Evaluation Cells.* Most of the States have set up cells in this field. In Madhya Pradesh, a monitoring cell exists at the State level and evaluation cells in some of its departments. Andhra Pradesh also has a monitoring-cum-evaluation cell in the planning wing of its Finance Department. The Government of Uttar Pradesh has created two monitoring cells : (i) The Food Department Monitoring Cell at State Headquarters keeps watch on availability and price trend of essential commodities. (ii) The Monitoring cell of the Directorate of Statistics and Economics covers 14 markets and 34 essential commodities.

*Empowered Committees.* Such committees with representatives of the concerned departments for taking decisions on the recommen-

dations of the task forces/study teams/committees, etc., through meetings, instead of through notings and files already exist in various forms in the Governments of Himachal Pradesh, Tamilnadu and Karnataka, etc. Many other State Governments have issued orders for constituting such committees.

*Performance Appraisal.* The Governments of Rajasthan and Kerala have rationalised the system of performance appraisal and have also devised new forms for the assessment of employees performance. The question of rationalising the system is under the active consideration of several other State Governments.

*Premature Retirement.* Almost all the State Governments have taken necessary steps for the voluntary as well as compulsory retirement of their officers. While the number of those seeking voluntary retirement is not large, that of those falling in the other category is considerably large. Steps in this direction have also created a healthy influence in the services.

*Training.* Many State Governments have made arrangements for imparting training to their civil servants at various levels. While Maharashtra already has an Administrative Staff College, Andhra Pradesh has decided to establish a State institute of administration. The Government of Uttar Pradesh also has a Training School for its officers at Nainital.

*Administrative Tribunals.* Andhra Pradesh and Rajasthan have recently established such tribunals. Uttar Pradesh earlier set up two public services tribunals in November 1975 to deal with the service matters of the employees. Setting up of an administrative tribunal and been accepted in principle by the Government of Bihar and some other Governments are actively considering the matter.

*Administrative Coordination at the District Level.* Under this head, several aspects such as investing the District Collector with the power to record his appraisal on the functioning of the district level officers of the various departments, filling up the posts of collectors by sufficiently senior officers etc. are included.<sup>1</sup>

### III. SOME NOTABLE REFORMS IN THE STATES

#### JAMMU-KASHMIR

The State Government has recently appointed a Commissioner-cum-Secretary for administrative reforms and employment. The functions of the department under him are : (1) Administrative Reforms and Re-organisation concerning all departments of the Government, both at the headquarters as also in the field. (2) Reactivating and re-vitalising the machinery for regular periodical inspection of Government Departments—This would cover, as an

<sup>1</sup> *Ibid.*, 577-81.

important element, the prescribed periodical stock-taking of each Department's property or stocks, the State of pendency of cases or references, and matters like periodical inspection of police stations, offices, treasuries, tehsils, etc. (3) Performing Administrative Audit—Under this, the Commissioner would deal, on a selective basis, with instances, of administrative inefficiency or default that may come to Government's notice (excluding external detection of instances of corruption or financial irregularities), locate responsibility therefor, and make reports to Government for taking suitable notice of such instances.

#### ANDHRA PRADESH

The President of India constituted, on 6 July 1976, an administrative tribunal for Andhra Pradesh to deal with the grievances of State employees in regard to service matters. The tribunal is headed by a judge of the Gujarat High Court, and has two members : (i) former Union Home Secretary, (ii) former Additional Secretary, Health Ministry. The tribunal will exercise the jurisdiction and powers which till now were exercised by a court (except the Supreme Court) with respect to appointment, allotment or promotion to any public post, seniority of persons appointed, allotted or promoted to such posts and all other conditions of service of all such persons.

Its jurisdiction will not cover persons appointed on contract or on part-time basis or village officers or members of the All-India Service or persons on deputation with the State Government from other States or the Central Government. The tribunal will follow the procedures adopted by the State High Court for disposing of writ petitions under Article 226 of the Constitution. The tribunal owes its origin to the six-point formula framed in September 1973, which envisaged more than one mechanism to tackle the problems of Andhra and Telangana regions.

#### RAJASTHAN

The State Government has, among others, taken the following important measures to implement the recommendations of the Chief Secretaries' Conference : (1) Campaign for clearance of arrears during a fixed period. (2) Replacement of old confidential report form by annual performance appraisal form. Eight forms have been prescribed for different categories of posts to ensure objective assessment. (3) Promotion on the basis of merit has been invoked and clear-cut procedure has been laid down. Except the first promotion in the cadre, all future promotions are governed by the merit formula. (4) Setting up of an administrative tribunal with effect from 1 July 1976 according to the Rajasthan Civil Service (Service Matters Appellate Tribunal) Act, 1976. The tribunal will deal with most of the service matters excluding disciplinary matters. (5) Review

Committees to look into cases of premature retirement of State Government employees have been constituted on the lines of those set up by the Union Government.

(6) Task forces have been constituted to examine simplification of forms, reduction of returns and enhanced delegation of powers. The State Government had also appointed a high-power committee for this purpose and its recommendations are also under consideration. (7) Surprise visits by officers and Ministers as also holding of monthly meetings to review progress and policies have been made a regular feature. Strict measures have been taken to enforce punctuality. (8) The pension procedure has been considerably simplified, eliminating many traditional formalities and provision has been made for grant of provisional pension and gratuity immediately on retirement. (9) The system of issue of pay slips to gazetted officers by the Accountant General has been done away with. (10) The public contact posts and counters are to be manned on a selective basis giving preference to persons of proven ability and honesty.

#### GUJARAT

The State Government, besides taking steps to ensure punctuality among its employees and launching a campaign to clear the arrears of work in offices (including reducing the number of pending judicial and quasi-judicial cases), has taken the following measures to increase the efficiency and effectiveness of its administrative machinery :

(1) Department-wise task forces have been constituted to identify the powers to be delegated and the extent of delegation required. After receiving the reports of the task forces, orders for the actual delegation of powers are to be issued to complete the process by September-October this year 1977.

(2) In departments where the public come into contact with the administration, e.g., the civil supplies offices, block offices, hospitals etc., task forces have been constituted to identify the areas of such contacts. The State Government proposes to organise studies in depth of each area with a view to improving efficiency of the administration at that level by simplifying procedures, special training of staff dealings with the public, etc.

(3) The State Government has decided to use the District Coordination Committees (which exist in each district and are attended by M.Ps., M.L.As., and Zila Panchayat Presidents) as the forum for discussing the grievances of the public with the officers. Collectors have been instructed to take up, with the concerned district authorities, the redress of those grievances which may be brought up by the representatives of the public and ensure that final orders are passed quickly. Where the redressal of a grievance required orders



from the higher authorities, Collectors will take up the matter with the appropriate authorities for expeditious issue of orders.

(4) Task forces have been constituted in each department for undertaking a review of the periodical 'returns' and 'forms', in order to simplify the forms and eliminate unnecessary returns and reducing their frequency, where necessary.

(5) For securing better deployment of its administrative personnel, the State Government has carried out extensive transfers of senior and middle level officers. These include 12-super-time scale IAS officers and 42 senior scale IAS officers.

#### KERALA

The State Government has taken the following important decisions on the recommendations of the recent Chief Secretaries' Conference : (1) All Secretaries to Government in consultation with Heads of Departments will identify the area at the cutting edge level and nominate a suitable officer of the department to study the possible improvement in such areas by simplification of procedures, etc. (2) In each department of the Secretariat, a Committee consisting of the Secretary to Government as convenor and Special Secretary to Government, Public Department ; and Secretary to Government, Finance Department as members will examine the scope for substantial delegation of powers both financial and administrative and make specific recommendations. (3) All Heads of Departments have been directed to arrange for the scrutiny of the various forms prescribed for use in the departments with the object of simplifying them and elimination of unnecessary data details. (4) All heads of Departments, District Collectors, and other District Officers and field level officers should invariably make night halts particularly in the interior areas within their jurisdictions so that an opportunity will be afforded to the general public to ventilate their grievances and seek redressal thereof.

#### MAHARASHTRA

In order to secure greater coordination, economy and efficiency, the State Government has decided to unite the Medical and the Public Health Departments. As a first phase of integration of the Departments the existing posts of : (i) Director of Public Health; and (ii) Surgeon-General with the Government of Maharashtra are being abolished. A post of Director of Medical Education and Research has been created to look after all aspects of Medical education including dental education, alongwith Hospitals attached to the teaching Institutions, training of Medical and para Medical personnel and all activities pertaining to Research. The Director of Health Services with headquarters at Bombay will be assisted by two Joint Directors of Health Services with head-

quarters at Poona, one dealing with Health Services and the other with Hospitals excluding Teaching Hospitals. At the Divisional level, in place of the existing four Deputy Directors of Medical Services and four Deputy Directors of Public Health in charge of the four Divisions into which the State is divided, there will be seven Deputy Directors of Health Services, each in charge of three to four Districts, with supervisory duties covering both the Medical and Public Health services. The Director of Medical Education and Research with headquarters at Bombay will be assisted by a Deputy Director.

#### IV. ADMINISTRATIVE REFORMS IN UTTAR PRADESH

With a view to generating effort of efficiency from within the departments in the Secretariat, the State Government made a start in May 1958, by designating senior officers in each Branch of the Secretariat as O & M Officers, who were expected to devote themselves, in addition to their own duties, to the study of work in their Branches and to devise ways and means for its more expeditious, efficient and economic disposal. Some of their other duties were : (i) inspection of departments with a view to discovering defects and suggesting improvements as also the enforcement of existing provisions of the Secretariat Manual; (ii) investigation into the causes of deterioration of efficiency in the Secretariat, locating defects, devising remedial measures and making efforts to awaken consciousness for efficiency in the staff; (iii) maintenance of healthy contacts with staff; (iv) examination of proposals for additional staff in the department; (v) examination of arrear lists and other returns to be prepared by departments regarding the work done there; and (vi) convening periodical discussions in their Branches for re-appraising the existing provisions in respect of efficiency and economy and for considering measures necessary to remove defects detected in the working of Offices.

In April 1960, a nucleus of whole-time staff was formed in the O & M Division to take up the work investigation in the existing official machinery and its procedures through 'work-study' of organizations and their units. With the object of providing continuing leadership in securing steady improvement in administrative efficiency and standards, a Committee on Administration was set up in December 1960, under the chairmanship of the Chief Secretary to Government as its members, at the peak of the O & M Division having overall responsibilities for effective organization of governmental machinery as a whole and Organization and Method Division in particular. The Committee was intended to resolve any difference of opinion between various departments and the O & M Division and was charged with the responsibility for proposing

measures for improvement in the standard of administration and for reviewing the actions taken by various departments.

The matters relating to anti-corruption measures in the State and those concerning enquiries of corruption and malpractices were being handled formerly in the Confidential Department. After independence, strong public disapproval was voiced against corruption and in order to check this evil, an Anti-Corruption Department, which was a wing of the Police Department, was formed as a field organization under a Deputy Inspector-General of Police for investigation of cases of corruption and such other complaints against Government servants. This Department was merged in 1949 in the Criminal Investigation Department which was another wing of the Police Department. The State Government set up on 8 July 1964, a Vigilance Commission with headquarters at Lucknow, as an important step in the effort to check corruption and to ensure a clean and efficient administration in the State.

The Uttar Pradesh Vigilance Commission, which has two wings, an Investigating Wing known as the Uttar Pradesh Vigilance Establishment under a Director of Vigilance and a Trial Wing known as the Administrative Tribunal, both directly and collectively responsible to the Government, works under the administrative control of the Vigilance Department, which was formed simultaneously out of the Anti-Corruption cell in the Confidential Department. The Vigilance Department is responsible for taking anti-corruption measures in the State and for mobilising public opinion against bribery and corruption.

Complaints received in the Vigilance Department are dealt with in any of the following ways :

(a) If the complaint appears *prima facie* frivolous and no further action is required, the papers are deposited. No notice is generally taken of anonymous and pseudonymous applications and they are deposited straightaway.

(b) If facts relating to a complaint are already available with the Government, the complaint is examined in that light and a decision is taken regarding further action.

(c) Where an inquiry is considered necessary, the complaint is referred to the Uttar Pradesh Vigilance Establishment for inquiry. But the Vigilance Department consults the Minister in charge of the department before an investigation or inquiry relating to an officer of his department is entrusted to the Vigilance Establishment.

On receipt of reports of the Vigilance Establishment, it is decided, depending upon the seriousness of the charges and the evidence available, whether the case of a delinquent government servant is to be sent to a court for trial or only departmental action is to be taken. If the case is to be sent to Court, a report is made to the police authority having jurisdiction in the matter for regular

investigation. If only departmental action is needed, the case is referred to the concerned administrative department. The tribunal sends its report in each case to the Government in the Vigilance Department. A special feature with the Administrative Tribunal is that recommendations made by it for punishing a delinquent official are not referred to the State Public Service Commission for their advice, but the delinquent official is given a reasonable opportunity of making representation on the penalty proposed for him. No appeal lies against the order passed by the Government.

The Commission, as whole, formulates proposals for prevention and control of corruption and in particular takes the following steps :

(a) Advising Government regarding change in procedure and practice with a view to eliminating chances of corruption;

(b) Collecting such statistics and other information as may be necessary for the performance of their functions;

(c) Advising Government regarding methods and procedures for redress of public grievances;

(d) Calling for reports, returns and statements from all Government departments, public offices and Government undertakings so as to enable it to exercise general control and supervision over the vigilance and anti-corruption work in that department, office or undertaking;

(e) Obtaining information about action taken on its recommendations by any Government department office or undertaking ; and

(f) Submitting an annual report to Government in the Vigilance Department about its activities, and drawing attention of the Government to any recommendation made by it in respect of the functions enumerated above and which was not accepted or acted upon by the Government or the Department concerned.

The annual report is placed before the Legislature. The aim is that no case of corruption against an employee of the State Government should go uninvestigated nor should any employee found corrupt escape unpunished. The recommendations of the Commission on matters mentioned above are, as a general rule, accepted by the Government. Where the recommendations are not accepted or acted upon, the procedure observed in dealing with the recommendations of the Uttar Pradesh Public Service Commission is followed *mutatis mutandis*. The Vigilance Commission does not deal with complaints against members of the Legislature and members of the Government.

The Uttar Pradesh Vigilance Establishment Ordinance, of 5 January 1965 was replaced in March the same year by the Uttar Pradesh Vigilance Establishment Act. The Act provides for the constitution, superintendence and administration of a special police force in

the name of the Uttar Pradesh Vigilance Establishment. The Officer-in-charge of the Establishment is the Director of Vigilance, who exercises all the powers of a head of department and that of the Inspector-General of Police as are exercisable by the latter in respect of ordinary police force. He is assisted in the investigation work by a number of senior police officers. Technical Advisers consisting of two Executive Engineers, a District Supply Officer, a Sales Tax Officer and an Accounts Officer, assist the investigation officers in inquiries relating to the respective departments. There is also a Legal Branch consisting of two Senior Public Prosecuting Officers and six Public Prosecutors, who give legal assistance to the investigating officers and also prosecute cases in courts. The Vigilance Establishment can investigate into offences punishable under various sections of the Indian Penal Code, 1860 and other offences punishable under various Acts.

The Establishment is required to :

(i) Keep the Government informed of matters coming to its notice regarding corruption, bribery, misconduct and malpractices against public servants;

(ii) Collect intelligence as may be required by the Government regarding possible sources of corruption in public servants, and

(iii) make enquiries, secret or open, into such cases of corruption, bribery, misconduct or other malpractices, etc. as are referred to it by the Government in the Vigilance Department.

The Vigilance Establishment makes Preliminary inquiries into complaints of corruption against government servants in general and gazetted officers in particular. Inquiries against non-gazetted staff are also, where considered necessary, entrusted to it; but they are, by and large, handled by the Criminal Investigation Department of the Police. The Establishment undertakes inquiries only into those cases which are referred to it by the Vigilance Department. All complaints received by the Vigilance Commission are passed on to the Establishment and those received by the latter, either directly or otherwise, except those which *prima facie* appear frivolous, are forwarded to the Government in the Vigilance Department with or without comments for orders of the Government. The Establishment furnishes to the Vigilance Department a detailed report embodying its conclusions, as also draft charges in cases in which action is recommended, in order to enable the Government to decide the course of action to be taken against the delinquent government servants.<sup>1</sup>

<sup>1</sup> M. Zaheer and Jagdeo Gupta, *The Organisation of the Government of Uttar Pradesh*, 684-87.

## V. REPORTS REGARDING ADMINISTRATIVE REFORMS IN THREE STATES

MADHYA PRADESH :

REFORMS COMMISSION'S VIEW OF STATE ADMINISTRATION

While the Reforms Commission, set up by the Government of Madhya Pradesh in 1969, was engaged in carrying out its analysis of the State Administration, it did not find it an 'unusual experience' to be informed that an officer : (i) at 11 a.m. had not yet come to office; (ii) at 1.30 p.m. had gone for lunch; (iii) at 3.00—3.30 p.m. had not yet returned from lunch; and (iv) at 5.00 p.m. had left office. But it came as a shock to the Commission that the 'gross takings by way of State taxation out of the gross domestic product of the State were no more than 3.5 per cent.'

Describing some of the distressing features of Personnel Administration, the Commission drew attention to the 'tremendous load...being carried by the State Exchequer on account of establishment costs which registered a compound growth rate of 13.1 per cent during the last decade.' It went on to say : 'The State revenues have shown a growth rate of 14.2 per cent. A project that we caused to be made shows that if there is no change in numbers or in the rate of remuneration and it continues to be what it is today, the State would be left with no revenue surplus in 1979-80 if the past trend of price increases persists.'

The reports of the Commission dealt with the following subjects : (i) Levels of Administration; (ii) Machinery of Government—Part I, focussing on principles of organisation and allocation of business; (iii) Machinery of Government—Part II, in which the principles enunciated in Part I are applied and the functions, responsibility, categories and organisation of individual departments at all levels are indicated; (iv) Methods and Procedures; (v) Financial Administration; (vi) Personnel Administration; (vii) Support Services; (viii) Vigilance Organisation and Redress of Citizens' Grievances; and (ix) General Recommendations dealing with matters which could not be properly treated in any of the above reports.

In its report on 'Levels of Administration' the Commission examined as to how many such levels should be there for the convenient and expeditious transaction of business. It came to the conclusion that there should be only four administrative levels, namely, (i) block, (ii) district, (iii) division, and (iv) state. The block should be the primary unit of planning and the unit of administration charged with operational or execution responsibilities of such developmental activities as are significant and important to its area. Further, the district level should become the principal point of operational control and should exercise some of the management

control functions.

Studies made by the Commission had found that the parallel hierarchies, namely, the Secretariat and the office of the Heads of Departments, had developed serious structural defects which had affected their efficiency and capacity to fulfil the purposes of a welfare state. It said that if the challenge of the times was to be met, radical structural reorganisation was necessary. Other serious defects the Commission came across in the 'Machinery of Government' were : (a) the rather casual and inadequate association of experts in the higher management of public business, and (b) almost irrational system of allocation of business.

The report on 'Methods and Procedures' contained more or less, a series of recommendations pertaining to planning procedures, consultation procedures, communication and reporting systems, data collection and other matters such as records, registry, etc. An important recommendation, contained in the 'Financial Administration' report is that a survey of expenditure and prospective income should be made annually for a period of years ahead. Recruitment, incentives, placement, training and development, research and audit of personnel—are the topics analysed in the report on 'Personnel Administration.'<sup>1</sup>

RAJASTHAN :

#### RECOMMENDATIONS OF THE COMMITTEE ON SECRETARIAT PROCEDURE

Comprising four members, under the chairmanship of the Chief Secretary, the Committee on Secretariat Procedure, set up to study the problems of delays in the despatch of Government business, said that there was a fallacious belief that it was in the interest of the department to keep the entire departmental hierarchy in picture for the cases. This was obviously a major source of dilatoriness in the functioning of the Secretariat and levels have to be cut down to the minimum necessary (there are, at present, six levels in the office upto the Secretary and another three levels in the hierarchy of the political executive).

The Committee therefore felt : (1) The Minister should not frame Standing Orders in contravention of the General Standing Orders incorporated in the Rules of Business. (2) The Standing Orders should provide adequate level jumping so that the levels of consideration and decision-making in a department are restricted to four. This can be done by adopting the following principles : (a) There should be only one level of consideration at the political hierarchy, (b) The cases going upto the political executives should be initially examined by the Group Officers, and (c) Initial examination in other cases should be done by the dealing hand. (3) The Group System as recommended by the Secretariat Reorganisation

<sup>1</sup> See I. I. P. A., *Newsletter*, July 1972.

Committee in Chapter III of their Report, may be introduced in all the Departments of the Secretariat except a few departments/sections for which either the Cell System or the existing set-up has been considered suitable by the SRC. (4) Special procedure of the departmental officers converting themselves into a Committee for examining highly important matters of policy should be followed. (5) The Secretaries should occasionally visit the departmental offices and check up the position regarding arrears.

(6) Instructions in regard to all the objections being raised on the cases at the very first instance instead of doing it piecemeal should be strictly observed. (7) Every Department should set up a Small Departmental Library containing relevant Rules and Manuals and necessary professional literature. (8) For attending to the Hindi translation work of the Secretariat departments a separate Cell consisting of four Ghataks should be set up in the Vidhi Rachna Sanghathan. (9) A Secret Records Room should be arranged for consigning the closed secret files of the departments. (10) Interviews to the visitors to the Secretariat Officers should be restricted to an hour from 2:30 p.m. to 3:30 p.m.; during this period the officers should be available and should not keep any other engagements including meetings. (11) It is desirable that the Ministers should also similarly restrict the visiting hours to the after-noon. (12) The appointments to the posts of assistants should be 50 per cent by direct recruitment and 50 per cent by promotion. (13) Out of the five posts of Deputy Secretaries and equivalents in the Law Department held by RHJS Officers, one post may be taken out from RHJS and manned by RSS/RAS Office to deal with establishment, budget, service matters. (14) The principle of interchangeability of officers between the Secretariat and the field should be observed more strictly. The tenure of the posts of Commissioners, Secretaries, Special Secretaries, should not be more than 5 years. Field postings between the two periods of tenure in the Secretariat should be at least 2 years.

(15) There should be in-service training of LDCs lasting for about 4 months. As for senior ministerial staff, the Refresher Courses should be arranged. O & M Department should prepare a scheme in this regard in consultation with the State Institute of Public Administration. (16) Secretaries to the departments should ensure that unnecessary references to the Reference Departments, namely, Finance Department, Law Department and Appointments Department are avoided. (17) The Legal Affairs Department dealing with advice, writs, drafts etc. should be reorganised on the pattern of the Cell System. (18) Interpretation of the Service Rules should be generally disposed of by the Dy. Secretary In-charge of this work in the Appointments Department and only complicated cases should be submitted to the Special Secretary Appointments for



his opinion and approval. (19) The Government should appoint a separate Committee to review the basic rules like the Rajasthan Service Rules and the General Financial and Accounts Rules as well as the different Manuals and to examine the further possibilities of delegation of powers in financial matters from the Finance Department to the Administrative Department.

#### TAMILNADU :

##### REPORT OF REFORMS COMMISSION ON BOARD OF REVENUE

The report on 'Board of Revenue', submitted to the Government of Tamilnadu, contains a number of recommendations. The main ones, in the order of presentation in the report, are : (1) The functions of the Board cannot be administered directly by the Government. (2) Divisional Commissioners in the place of the Board are unsuitable for this State since the arrangement will reduce the stature and authority of District Collectors. (3) The best alternative is to divide the functions of the Board into five independent departments, each headed by a Commissioner. (4) The abolition of the Board and the transfer of functions to independent Commissioners can be done without legislation by a notification under the Board of Revenue Regulation, Act I of 1894. But this course is not recommended. (5) The proper course is by legislation, which requires the concurrence of the Central Government. (6) The various enactments, both Central and State, which need amendment have been listed out. (7) The draft Bill would enable the progressive transfer of functions to independent Commissioners and the retention of the collective Board for specific purposes, if so desired. (8) The Bill would also enable the transfer of subjects from other Heads of Departments to the new Commissioners. (9) The post of Commissioner of Food Production may be abolished.

(10) The work of the Board should be divided amongst five Commissioners. The Commissioners of Transport, Excise and Commercial Taxes will continue to deal with the subjects handled by them hitherto. Entertainment and Cinematograph Act will be administered by the Commissioner of Commercial Taxes. (11) It is not advisable to allocate all items of Revenue work to one Commissioner in view of the anticipated increase in work under Land Reforms. The two existing posts of Commissioners of Land Revenue and Settlement will have to be retained. (12) Commissioners of Land Revenue and Settlement will have to function through the common Revenue staff incharge of District Administration and hence they cannot be made independent of each other in all respects. (13) The largest single cause for the eclipse of the Board has been the lack of opportunities for personal contact with Ministers. The reorganisation should be calculated to correct this position. (14) The most practical expedient is to make all the new Commissioners Secretaries to the

Government for their respective subjects. (15) Since the Commissioners of Land Revenue and Settlement operate on the common district establishments, they may be designated as Secretary and Additional Secretary to the Government in the Land Revenue Department, according to their relative seniority in the cadre. The relationship between them will be regulated automatically under the Secretariat Instructions. (16) The residuary items of the Revenue Secretariat may be redistributed suitably and the problem of absorbing staff rendered temporarily surplus should be worked out in advance. (17) The new Commissioner-Secretaries should keep only one office each, to discharge their dual functions and this may conveniently be the office of the Head of the Department at Chapauk. Accommodation may be provided at the Chapauk office for such of the Ministers as would desire to work from Chambers located close to that of the Head of Department, in line with the practice obtaining in Delhi.

(18) The Secretariat Examination of Proposals of Commissioners should commence on an explanatory memorandum prepared by the Commissioner's office. The Commissioner-Secretary will be assisted for this purpose by an officer with experience of Secretariat procedure and the minimum Secretariat staff. Secretariat notes the original of the order of the Government and the Memorandum will be recorded separately from the Commissioner's office file as a Government Order. The Commissioner's office file with a copy of the Government Order will be recorded as a departmental disposal file. (19) Care should be taken to distinguish clearly between the powers of the Head of the Department and the role of the Secretary to the Government in the joint office. (20) Commissioners of Land Revenue and Settlement who function together as Secretariates to the Government in the same department, will discharge the corporate functions of the Board such as inspection of Collectors' officers, dealing with adverse seasonal conditions and natural calamities, initiating personal files of Collectors, etc.<sup>1</sup>

<sup>1</sup> I. I. P. A., *Newsletter*, October 1972.

democratic aspirations and the distinctiveness of the people of the different States are respected and not treated with disdain. We are definitely for strong States, but on no account do we want a weak Centre. The concept of strong States is not necessarily in contradiction to that of a strong Centre, once their respective spheres of authority are clearly marked out. The Preamble to the Constitution should be amended to include the word 'federal' in the description of the Republic of India. Consequential changes should also be made replacing the word 'Union' by the expression 'Federation' in all places.

5. To protect States' autonomy, an amendment to Article 248 should be made to the effect that the legislature of a State should have exclusive power to make any law with respect to any matter not enumerated in the Union or concurrent list, as against the present provision which reserves this right to Parliament. In other words, the residual powers of the federation should lie with the units and not with the Centre.

6. While enlarging the scope of the States' sphere, we must also try to preserve and strengthen the Union authority by subjects that could be carried out by the Union authority and not by any single State, such as defence, foreign affairs, including foreign trade, currency and communications and economic coordination. The role of the Centre should be one of coordination. In areas such as planning, fixing of prices, wages, etc., the Centre may not only coordinate but also issue general directions.

7. In the matter of planning and economic coordination, however, the Centre will have to conform to the general guidance laid down by the National Development Council, in which the States will have representation along with the Centre. At the moment, neither the Council nor the Planning Commission is specifically referred to in the Constitution. This lacuna may be closed by introducing a separate Article, which should also state clearly that the composition of the Planning Commission will be determined by the National Development Council. Loans and grants for developmental purposes are now the prerogative of the Planning Commission. It is thus important that the States have some say in the manner of operation of the Commission. But nothing beyond foreign relations, defence, communication, currency and related matters should be the exclusive domain of the Centre. The latter should help the States develop in their own way, with more powers and resources at their command.

Industrial and power or irrigation schemes which concern more than one State have to be kept in the Union List so that there can be a common policy and final decision in regard to these multi-State projects will be enumerated by the Union Government, while the execution and implementation should be done through the State

Governments. In matters concerning industrial licensing, etc., major modifications in the allocation of powers between the Centre and the States are called for. The Lists in the Seventh Schedule should be reformulated so that the States may be given exclusive powers in respect of certain categories of industries. The right of the Central Reserve Police or other police forces the Union Government may raise to operate in the States is to be withdrawn. The subjects of law and order and the police should be fully in the State sphere, and the Centre should not interfere with its own specially created forces.

8. The Article regarding the Finance Commission and the distribution of revenues should be amended to provide for 75 per cent of the total revenues raised by the Centre from all sources for allocation to different States by the Finance Commission. This is necessary to end the mendicant status of the States. The States must also be accorded more powers for imposing taxes on their own, and to determine the limits of public borrowing in their respective cases. The right of the Union Government to tax property and income of the States in certain cases as provided in Article 280, clauses 2 and 3, should be removed. Further, the right of the Union Ministry to put restrictions on trade and commerce and intervene within a State as provided in Article 302 should be deleted. To achieve these objectives, the Seventh Schedule enumerating the Union, State and Concurrent Lists should be suitably amended.

9. Articles 356 and 357 which enable the President to dissolve a State Government or its Assembly or both should be deleted. In the case of a constitutional breakdown in a State, provision must be made for the democratic step of holding election and installing a new government as in the case of the Centre. Similarly, Article 360 which empowers the President to interfere in a State administration on the ground of a threat to financial instability or credit of India should be deleted.

10. Articles 200 and 201 which empower the Governor to reserve Bills passed by the Assembly for President's assent should be done away with. The State legislatures must be made supreme in the State sphere and no interference by the Centre in this sphere should be allowed on any ground.

11. In order to endorse the principle of equality of the federating units and to protect further erosion of States' autonomy, it is suggested that elections to the Rajya Sabha also should be directly by the people at the same time as the Lok Sabha elections. All States must have equal representation in the Rajya Sabha except those with a population of less than three million. Both the Houses must have equal powers.

12. All-India services like the IAS, the IPS, etc., whose officers are posted to the States, but remain under the supervision

and disciplinary control of the Central Government, must be abolished. There should be only Union services and State services and recruitment to them should be made respectively by the Union Government and the State Government concerned. Personnel of the Union Services should be under the disciplinary control of the Union Government and those of the State services under the disciplinary control of the respective State Governments. The Central Government should have no jurisdiction over the personnel of the State services.

13. Article 368 should be so amended as to ensure that no amendment of the Constitution is possible without the concurrence of two-thirds of the members present and voting in each house of Parliament.

14. Article 3 of the Constitution, which gives powers to the Parliament to change the area of a State unilaterally, should be suitably amended so as to ensure that the name and area of a State cannot be changed by the Parliament without specific consent for that by the State legislature concerned. In the case of a conflict between two or more States, in respect of territory, steps should be taken to settle the conflict in accordance with the provisions already made in the Constitution for settlement of other conflicts (e.g. use of water resources of the same river flowing through a number of States) between the States.

15. Languages mentioned in the Eighth Schedule should be allowed in the work of the Governments at the centre and in the States at all levels. Any citizen of India will have the right to use his mother tongue in his dealings with any branch of the Government upto the highest stage, English should continue to be used for all official purposes of the Union along with Hindi till as long as the people of the Non-Hindi regions so desire. It may be necessary to further amend the Eighth Schedule to include certain other languages such as Nepali.

16. The special status of Kashmir within the Indian Union, as laid down in Article 370 of the Constitution, should be retained. The way this Article had been worked by the Congress Government at the Centre had raised grave doubts and suspicion among the people of the State. These must be removed now, particularly in view of the fact that the leaders of the State Government have underlined the Instrument of Accession to India.

## **G. Nayar and Verghese Committee Reports on News Media**

In accordance with its declared policies, the Janata government set up a 12-member Committee on 1 April 1977 under the Chairmanship of Kuldip Nayar to study the working of 'Samachar' and make recommendations about its future form and working. The Minister for Information and Broadcasting set up on 13 August 1977 another 11-member working group to study the question of converting Akashvani and Doordarshan into autonomous institutions. This group was headed by B. G. Verghese, a leading journalist. The report of the Nayar Committee was published on 2 August 1977 and that of the Verghese Committee on 9 March 1978. Important and relevant recommendations of the two committees and governments decisions are given as follows :

### **NAYAR COMMITTEE RECOMMENDATIONS**

The Committee in its majority report referred to instances of political interference in the collection and dissemination of news by 'Samachar' with a view to 'managing or even fabricating news in the interest of a small group around the former Prime Minister' (Mrs. Gandhi).

The Samachar management had become a 'closed door', making it possible to manipulate its functioning very easily. The responsibility for this 'gross professional misdemeanour' would lie on the executive of the agency as well as on its managing committee. 'We recommend that this should be investigated and responsibility fixed.'

The Committee has emphasised that it favours more than two news agencies and hopes that newspapers may come together to organise some more agencies. However, these other agencies, if and when constituted, should be restricted to domestic coverage because, the Committee hopes News India will one day become a first-class comprehensive world news agency and any duplication in the international field will only divide attention and resources.

The Committee has recommended India's continued participation in the news agencies pool of non-aligned countries. However, it has favoured a detailed examination of the way the pool's plan of action is being implemented. The results are at present not commensurate with the expenditure being incurred, it says.

The Federation of UNI Employees' Unions in a statement welcomed the recommendation of the committee to split 'the obnoxious caucus creation, Samachar, because a monopoly news agency is a menace to democracy.

According to the report, the employees' representatives by and large wanted Samachar to continue and the newspaper editors were overwhelmingly for splitting of Samachar into two or more news agencies.

In the considered opinion of the Committee, the restoration of the status quo ante 'would not be an ideal arrangement because apart from practical difficulties involved in going back to the old set-up, we favour two equal competing news agencies with ample scope for growth in the future.'

If 'Sandesh' and 'Varta' are organised properly, the report says, 'a subscriber will have the option to buy one or the other news service and will be able to exercise his right to choose and not be at the mercy of a single news agency.'

'Our belief is that both news agencies will develop such avenues and services as will cover the multifaced activities of the country.'

According to the report, 'Varta will one day provide service in all Indian languages. To begin with, it will offer service in all those languages which command more than half a million circulation of daily newspapers.'

Taking into account the evidence at the Committee's disposal, favouring two competitive English language news agencies, the report says, 'the English service of Varta can be independently bought by newspapers and this service will be adequate and comprehensive for daily newspaper in English.'

'In other words, two English language services will be available to any paper in any part of India. For example, if a paper in Cochin wants to buy the English news service or one English and one Malayalam, it will have the option to do so.'

The Committee visualises Varta as an agency with composite aims, namely to serve the language press, the regional press as well as the English press in Indian languages and in English to the extent they would prefer its services. 'We had to explain the role of Varta at some length in view of the diverse functions proposed to be assigned to it.'

On the infrastructure of Sandesh, the report says, it should be so designed as to make for expansion of the coverage in terms of areas and subjects and to achieve high standards of efficiency.

The general bodies of Varta and Sandesh would consist of (i) newspapers subscribers, (ii) other newspapers with a circulation of 5,000 or above, on payment of an admission fee of Rs. 2,500 and an annual membership fee of Rs. 500; and (iii) Akashvani and Doordarshan after they are converted into autonomous corporations.

The highest editorial and managerial functions should be combined in the Chief Editor in each of the two agencies. The Chief Editor would be appointed by the governing board concerned. He should be appointed on a five-year contract with provisions of

six months' notice on either side. The same pattern should be adopted for News India.

The Committee has suggested a governing board, comprising 13 members, for Varta. There should be, at the present stage, nine elected subscriber-representatives, representing languages, provided that there are at least three subscribers from the languages. There should be one representative elected by the employees; he must himself be an employee.

An equal number of members (13) has also been suggested for the governing board of Sandesh. These should include six representatives of subscribers, provided that at least one representative is taken from big, medium and small newspapers each. Employees should elect one representative to represent them on the board.

### VERGHESE COMMITTEE REPORT

In its unanimous report, it has suggested that the national broadcasting services should be vested exclusively in an independent, impartial and autonomous organisation—National Broadcast Trust (NBT). The organisation should be established by law to act as a trustee for the national interest and it should have a highly decentralised structure.

At the apex of NBT, the working group has suggested a board of trustees consisting of 12 persons, and not exceeding 21 persons. The trustees will be guardians of the charter given to the NBT by statute.

The Controller-General of Broadcasting (CGB) heading the central executive board has been conceived by the working group as a link between the trustees and the entire broadcasting organisation. He will be ex-officio secretary to the board of trustees so as to provide an organic link between these two tiers.

Apart from the Chairman, the board of trustees will have three other full time members to devote themselves to the fields of current affairs, extension and culture. They will operate through the CGB. According to the report, the board of trustees will be responsible to Parliament through its budget and an annual report. Together with accounts and auditor's comments, reports of the complaints board, among other things, will also figure in the annual report.

The complaints board will deal with complaints from the public relating to charges of unjust or unfair treatment, including unwarranted invasion of privacy and misrepresentation, provided the right of recourse of court is waived. The findings should be published by NBT in its programme 'Journals' and broadcast in special programmes.

In order to ensure the independence of the proposed NBT, the



report has recommended that the trustees, with six year terms of office, will be appointed by the President on the recommendation of the Prime Minister from out of a list of names forwarded to him by a nominating panel. The nominating panel for trustees will consist of the Chief Justice of India, the Lokpal and the Chairman of the UPSC. It would be a healthy convention, the report says, if the Prime Minister consults the Leader of the Opposition before submitting the list of names to the President.

According to the report, there are today some 20 million radio receivers and 6,00,000 TV sets. 'With population rising to, say 950 million by 2,000 A.D. and 'an end to destitution' and fuller employment, at least 80 to 90 per cent of all households should possess radios.' In a perspective study for 2,000 A.D., the report says there can be 160 to 180 million radio sets and between 12 and 18 million TV sets by the turn of the century.

Since India is a plural society and a union of states or federation, central control over such powerful and expanding media has engendered political controversy in the past and could conceivably do so in the future. In the opinion of the working group, Akashvani and Doordarshan combine in themselves the characteristics of the market place, newspaper, university, national extension agency and cultural academy. As such, a unique institution must enjoy a unique autonomy. The report has called upon the National Broadcast Trust to bridge the urban-rural divide and combine modernity with relevant tradition.

It has recommended the establishment of a strong audience research division. The report has noted that the audience research unit has a very limited staff and budget. It is, therefore, impossible to conduct any regular audience surveys or to operate on more than very small samples. The audience research reports should be made available simultaneously and directly to the board of trustees since these reports will constitute one of the most important antenna of the broadcasting organisation.

The Board of Trustees, whose one-third members will retire every alternate year, will have wide powers from policy decisions bearing on the expansion of the broadcast system to technological choices, quality of service and issues likely to affect the financial viability of the trust.

Another important recommendation of the group is that NBT should be authorised to grant broadcast franchise whether for radio or TV to approved educational institutions. Such a franchise recommendation by NBT should automatically be converted into a broadcast licence by the Ministry of Communications, the specific frequencies being allocated and coordinated by the Ministry's wireless adviser.

This is for the first time that such a broadcast franchise has

been offered to non-governmental institutions to encourage educational broadcasts and research activities. The franchise, to be granted by an NBT licensing board, will be manned by part-time commissioners. The licences should be granted for three-year periods at a time and should be renewed on satisfaction of performance.

Apart from general news, Akashvani and Doordarshan must make a special effort to encourage development news reportage and the coverage of special areas like sport, science, health, education, the arts, labour and farming. This may require the recruitment of special talent and opportunities for specialisation and travel.

The report has quoted the Minister for External Affairs as telling the working group that autonomy must cover external broadcasts as much as internal broadcasting and that there could be 'no half-way house.'

In order to facilitate early passage of the Akash Bharati Bill, the working group has drafted a Bill and appended it to the report. The report has expressed the hope that the Bill would be approved by the Cabinet in time to be formally introduced during the current session of Parliament. It desires the Bill be taken up for consideration during the monsoon session and enacted by September or October this year. The group has also suggested that a broadcast autonomy cell should immediately be set up by the Information and Broadcasting Ministry, to process this report and prepare working papers for preparatory action and Cabinet decision.

#### GOVERNMENT'S DECISION

The Government decided in November 1977 to restore the *status quo ante* on the ground that the creation of Samachar against the expressed wishes of the four news agencies was one of the excesses of the emergency, which should be undone. A second consideration was that monopoly in news collection and dissemination is not healthy in a democracy and there should be reasonable scope for competition. One general impression is that Samachar has become somewhat sluggish after it acquired monopoly in the field. With two or more agencies in existence, the spirit of competition would be revived.

The government's decision envisages the revival of four separate agencies, but in effect it would mean two major news agencies—Press Trust of India and United News of India. The two Hindi agencies—Samachar Bharati and Hindustan Samachar—would find it difficult to operate independently and hence would have the option to merge with either PTI or UNI. Alternatively, both PTI and UNI could have Hindi wings.

In respect of collection and dissemination of news from abroad, the two English agencies may be allowed to come to some such

arrangements with foreign agencies as existed before the merger.

The decision means the rejection by the government of the alternative suggested by the Committee headed by Kuldip Nayar, namely, the splitting up of Samachar into three independent agencies — Sandesh (exclusively English), Varta (Hindi and other languages with an English wing to provide competitive service to Sandesh) and 'News India', which would be jointly operated by 'Sandesh' and 'Varta' for canalisation of foreign news into India.

## **H. Inquiry Commissions Reports : Sarkaria Commission and Shah Commission**

**The Sarkaria Commission** in its report issued on 12 May 1978, has held M. Karunanidhi former Chief Minister of Tamil Nadu, guilty of squandering Rs. 6 crores of public money on a contract for the Veeranam Water Supply Project. In the sugar mills case, the Commission opines that in January 1970, Karunanidhi and the then Food Minister abused their official powers and, taking undue advantage of the critical situation resulting from the unprecedented accumulation of stocks with the sugar mills, demanded illegal gratification from them for appointing them as wholesale-cum-retailers of levy sugar on behalf of the state. In pursuance of this arrangement, Karunanidhi received from nine sugar mills illegal gratification in cash aggregating to Rs. 13,21,296 in 16 instalments. The Commission also says that Karunanidhi and the Food Minister committed serious acts of impropriety in violation of the national sugar policy and the established norms of official procedure.

**The Shah Commission** in its interim report published on 15 May 1978, has held that the decision to impose the emergency in 1975 was taken 'exclusively' by Mrs. Indira Gandhi in a desperate effort to continue in power despite a judicial verdict against her. Justice Shah points out that the Cabinet and important functionaries of government were not only not consulted but deliberately kept in the dark by Mrs. Gandhi. The Commission has also charged Mrs. Gandhi with gross abuse of power in a number of cases. But it has not mentioned any specific action to be taken against the former Prime Minister.

## I. Boothalingam Committee Report

The Boothalingam Committee on Wages, Incomes and Prices submitted its report to the Government early in May 1978. Its important recommendations having a bearing on country's administration are summarised as follows :

### BONUS AND PENSION

To move away from the bonus system to the pension scheme, the Committee has recommended the setting up of a 'pension commission' which will evolve suitable pension policy for all sectors.

Dealing with price controls, it has recommended that apart from the Dagli Committee which is also going into the issue, there should be a permanent machinery to examine and monitor the behaviour of prices and to suggest suitable changes in the prices of agricultural products as well as raw materials and manufactured items. While fixing the national minimum wage at Rs. 100 per month to begin with; the Committee says the real minimum wage can only be the absolute national minimum, irrespective of sectors, regions or states, below which no employment would be permitted. Factors determining minimum wages are the per capita national income, average national income per consumption unit, and the per capita rural consumption expenditure. Also the minimum wage cannot deviate too much from prevalent earnings in the small scale sector. The impact of minimum wage must not be such as to inhibit generation of employment.

The minimum wage will be applicable throughout the country for unskilled workers and for every adult of 18 years or above, irrespective of sex. Present starting minimum, where lower, will be brought to the revised level. State governments will have freedom to fix higher minimum wages for any category of employment under the Minimum Wages Act.

### DEARNESS ALLOWANCE

On dearness allowance, the Committee has underlined the need for a single national corrective formula to compensate for the rise in the cost of 'essential consumption value.' It has recommended that future DA should be linked to the cost of living on a uniform basis based on the all-India average consumer price index for industrial workers. The switch-over can be from next wage revision. DA revision should be on a quarterly basis for all sectors. The Committee has favoured the 'value per index point system' in place of 'wage-linked slab system'. The value per point suggested, is around Rs. 1.30 which is already prevalent in two-thirds of public sector enterprises as also

the cement and steel industry. Other industries can continue with the varying point value till next wage revision.

### MINIMUM PENSION

Funds for this could be drawn from contributions paid by employers and employees in suitable proportions. The pension scheme, the Committee has said, should be extended gradually to the self-employed sector covering 62 per cent, of the workers—artisans, shop-keepers etc.

Referring to government pensioners, the Committee has suggested that the minimum pension should not be less than the national minimum wage. Besides, middle and low level pensioners should be given DA as given to salaried employees. The need for evolving a suitable model for paying old-age pension all over the country in due course has also been recommended by the committee.

### WAGE SETTLEMENT

Wage settlements should be valid for a period of five years. Also, pay commissions and committees should be appointed every five years. While the proposed bureau of incomes and prices will determine the guidelines for wage settlements, an independent appellate body should be set up for referring cases where wage settlements could not be made under the guidelines. The award of the body, the Committee says, will be legally binding.

On the question of high income and top salaries, the Committee notes that salaries of government servants and those employed in the public sector are already subject to considerable restraint. The ratio between the post-tax salary income of the lowest and the highest in these sectors is now about one to nine.

The Committee is of the view that the question of some upward revision of salaries in the higher ranges needs examination in order to attract people of the requisite calibre. It has recommended that the problem be referred to the proposed national pay commission.

As for the private sector, the ratio between the post-tax income of the lowest and the highest is 1 to 16. This takes into account the risks and uncertainties that go with the job in the private sector and the requirements of higher managerial talent which is relatively scarce.

### QUESTION OF PERQUISITES

Differential in the private sector, therefore, can be higher than in the government or public sector, but they still need to be narrowed. On the question of perquisites, the Committee has recommended that

the total value of perquisites must be fully taken into account in determining the level of compensation and should not exceed 25 per cent of the pay.

The Committee is of the view that there should be a limit to the total salary and commission paid in the private sector which should be applicable not only to directors but others as well. The limit, however, should not represent too drastic a change.

It has suggested for the next five years that a limit of Rs. 6,000 per month be fixed for all new contracts. It also wants the concept of commission to be phased out in three to five years. Simultaneously a substitute system for incentive payments for exceptional performance both in the private and public sectors should be evolved. This should be coupled with penalty for negative or unsuccessful performance. Differentials in the private sector among higher paid employees should be settled through negotiated contracts, subject to the overall limits.

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